

# POLEY'S LAW AND PRACTICE OF THE STOCK EXCHANGE

FIFTH EDITION

BY

R. H. CODE HOLLAND, B.A.

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW

AND

JOHN N. WERRY



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## PREFACE

### TO THE FIFTH EDITION

THE coming into operation of the Companies Act, 1929, has made necessary many alterations in the text of *The History, Law, and Practice of the Stock Exchange*, and advantage has been taken of the opportunity afforded by the exhaustion of the Fourth Edition and the changes in the law to rewrite considerable portions of the work. The Editors have, however, endeavoured to retain as far as possible those characteristics of the original work which have rendered it for more than a quarter of a century so popular with those connected with the Stock Exchange

A table of statutes has been added, all cases of importance have been included, and a fresh index has been prepared. No effort has been spared to make the work both accurate and useful, and it is hoped that it will appeal both to those immediately connected with the Stock Exchange and to members of the legal profession, bank managers, actuaries, company promoters, and business men who are concerned with Stock Exchange transactions

The latest edition of the Stock Exchange Rules and Regulations is printed in the Appendix, and the Editors wish to take this opportunity of thanking the Committee for permission, so kindly accorded, to publish them.

R H. C. H.  
J. N. W.

JUNE, 1932



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MEMBERS of THE STOCK EXCHANGE are not ALLOWED to ADVERTISE for business purposes or to issue Circulars or Business Communications to persons other than their own principals

Persons who advertise as Brokers or Share Dealers are NOT Members of the Stock Exchange or under the control of the Committee.

Members issuing Contract Notes are required to use such a form as will provide that the words "Member of the Stock Exchange, London," shall immediately follow the signature.

A List of Members of the Stock Exchange who are Stock and Share Brokers may be seen at the Bank of England Stock Transfer Offices, Finsbury Circus, or obtained on application to A L F Green, Secretary to the Committee of The Stock Exchange, Committee Room, The Stock Exchange, London, E C 2



# LAW AND PRACTICE OF THE STOCK EXCHANGE

## CHAPTER I

### THE HISTORY OF THE STOCK EXCHANGE

THE present Stock Exchange was opened in March, 1802, with some 500 subscribers. The record plate of the foundation-stone is thus inscribed · “ On the 18th of May, in the year 1801, and 41 of George the Third, the first stone of this building, erected by private subscription for transaction of business in the public funds, was laid in the presence of the proprietors and under the direction of ” . . . (here the names of the first nine managers are inscribed). The inscription then recites that the public fund debt had accumulated in five successive reigns to £552,730,924. Prior to 1802 brokers and jobbers had met for the transaction of their business at New Jonathan's, a coffee-house to which admission was gained by payment of sixpence. In 1773 the title of the Stock Exchange was applied to New Jonathan's, the fact being announced in a paper dated July 15th, 1773, as follows . “ Yesterday the brokers and others at New Jonathan's came to a resolution that instead of its being called New Jonathan's, it should be called The Stock Exchange, which is to be wrote over the door.” New Jonathan's seems to have been the successor to Jonathan's Coffee House, which was burned down. Jonathan's was one of the earliest homes of the jobbers, and reference is made to it in Mrs. Centlivres's comedy of “ A Bold Stroke for a Wife,” for in Act IV, Scene 1, a stockbroker at Jonathan's says . “ I would fain bite the spark in the brown coat. He comes very often into the Alley, but never employs a broker.” Prior to jobbers frequenting Jonathan's and Garraway's, stockbrokers frequented the Royal Exchange. Change Alley also was early identified with the jobber, for we find Dr. Johnson in his dictionary defining a jobber as a low wretch, who gets



money by buying and selling shares in the fund, going on to quote—

The stock-jobber then from Change Alley goes down,  
And tips you the freeman a wink.  
Let me have but your vote to serve for the town,  
And here is a guinea to chink.

The history of the South Sea Bubble records what is now known as a boom on the Stock Exchange, and as its effects had a far-reaching influence for years over the fortunes of the Stock Exchange, some description of it may not seem out of place. The South Sea Company—a Company of Merchants of Great Britain trading to the South Seas and the other parts of America, and for encouraging the fishery, came into active life on the 7th of September, 1711. Harley, Lord Oxford, was its governor, and St John and the Chancellor of the Exchequer were active directors. It thus was a State affair, and early in its career St John had to intimate that “for the public good of the nation and the particular advantage of this Company her Majesty has been pleased to assist them with a sufficient force in order to their making a settlement in the South Seas for their security and better carrying out the trade to these parts,” and the Company immediately press upon the Government “the getting ready the sea and land forces which are to go with the Company’s ships in their intended voyage.” The agreement made with Harley, Earl of Oxford, was that the Governors should take ten millions of the floating debt upon themselves for a certain time at six per cent interest, the Company having in return the monopoly of trade to the South Seas.

The earliest accounts of the Company show that they were largely engaged in rivalry with the Royal African Company concerning the supply of negroes, and the Company congratulate themselves upon their fine generosity in obtaining their supplies from the Royal African Company when they might on more reasonable terms have provided them on the coast of Africa and at Jamaica. The negroes referred to seem mainly to have been conveyed to Jamaica, where there were many escapes, so that it became more profitable to sell an uncaught runaway for what he might bring than to spend money on recovering him.

Harley and St. John seem to have participated in arranging the

details of this slave trade, which in no wise shocked public opinion, for the most illustrious English clergyman of the age, though he denounced both of them before God as a couple of scoundrels, did so for their lack of discrimination in the selection of a bishop and not for their dealings with the African negro.

In 1717 the Company's stock was increased to twelve millions on consideration of their advancing the Government two millions to pay off the National Debt. The credit that the Company obtained over these transactions led to the making of a bold suggestion—no less than a project to take up the burden of the National Debt, which amounted to nearly thirty-one millions, and reduce the interest from 5 per cent to 4 per cent. To Sir John Blount, a daring financier, the conception of this scheme is due. The scheme on being placed before a committee of the House of Commons met with great favour, even the Bank of England were anxious to share in such a praiseworthy project. As might naturally be expected, with the announcement of the Committee's decision to allow a bill to be brought in, the Company's shares began to rise, the price jumping up from 130 to 300, the rise continuing as the bill made progress. Amidst the chorus of approbation that hailed the scheme it was difficult even for the voice of Walpole to be heard, and no serious attention was paid to his description of the absurdity of the bill and the evils that must necessarily follow its receiving Parliamentary sanction. The shares at one time nearly touched 400, ultimately fluctuating to 310—when the bill passed. Meanwhile Change Alley, Cornhill, and Lombard Street were thronged with the carriages of lords and ladies.

To quote from one of the ballads of the day—

Then stars and garters did appear,  
Among the meaner rabble,  
To buy and sell, to see and hear,  
The Jews and Gentiles squabble.  
The greatest ladies thither came  
And plied in chariots daily,  
Or pawned their jewels for a sum  
To venture in the Alley.

Within five days after the passing of the bill the directors asked the public to subscribe one million at £300 for every £100 capital. The subscription exceeded two millions and the stock advanced to £340.

A dividend was shortly afterwards announced at 10 per cent, and a second subscription of a million at £400 per cent was opened, and in a few hours a million and a half was subscribed.

The extraordinary success that had hitherto marked the history of the South Sea Company led to the formation of a swarm of companies. Some, such was the then existing public credulity, hardly attempted to disguise their bogus character. One company was called "A Company for carrying on an undertaking of great advantage, but nobody to know what it is": each subscriber of a £2 deposit was to be entitled to £100 per annum per share. Its flotation met with great success no less than 1,000 shares being taken in six hours, and the deposits paid. In May South Sea stock reached 550, and in four days it rose to 890, it then fluctuated, falling to 640, finally rising to 1,000. Thenceforward its fall was rapid, and the Bank of England were reluctantly obliged to come to its assistance. The Company's stock ultimately fell to 150, and thousands of people were ruined. A storm of indignation followed. It was suggested by one peer that as there was no law for the punishment of directors, they should be tied up in sacks and thrown into the waters of the Thames. Walpole, however, made a more reasonable suggestion, which was ultimately adopted—namely, that there should be a Committee of Inquiry, and that the Bank of England should take over nine millions of the stock, and the East India Company another nine millions. The public indignation, however, required sharper measures, and the House of Commons ordered five directors, one of whom was Mr. Edward Gibbon, the grandfather of the historian, into custody of Black Rod. Meanwhile the treasurer, Knight, had secured the books and papers, and, disguising himself, escaped to Calais. He was ultimately apprehended, however, near Liège, and lodged in the citadel of Antwerp, but, extradition being refused, he escaped.

The Committee of the House of Commons, which sat with locked doors, reported that the Company's books had been falsified to a large extent and that fictitious stock had been distributed to members of the Government to assist in the passing of the Bill. The Earl of Sunderland had been assigned £50,000, Mr Secretary Craggs £50,000, Mr Charles Stanhope (one of the Secretaries to the Treasury) had received £250,000 as differences, and the Chancellor

of the Exchequer's account showed a profit of £794,451. On the trial of the accused Mr. Charles Stanhope was acquitted by three, the Chancellor Aislaby was expelled the House, his estates seized, and he was sent to the Tower; Sir George Caswall, a member of a firm of jobbers, was also expelled the House, committed to the Tower, and ordered to refund £250,000. The estates of Mr. Craggs, who had died before his examination, were confiscated, and a million and a half of money was obtained for the benefit of the sufferers. Every director had to pay, the whole of their wealth was taken from them, a small sum only being allowed to each wherewith to start life again.

During the boom fortunes were made and lost. Whilst Gay, the poet, at one time might have realized £20,000 on some shares which had been given to him, and, hoping to gain more, lost the chance, Guy, more successful in his speculations, was able to leave sufficient to build a splendid monument of himself in the hospital named after him.

To understand the reason why stockbrokers and jobbers first began to form a community it is necessary to turn to the end of the seventeenth century. The prosperity of the country had led to a great accumulation of wealth. Prior to the formation of the National Debt it was undoubtedly largely hoarded. It is related, for instance, that Pope's father, when in apprehension of the revolution which seated William III on the throne, fled from London and carried with him his fortune of £20,000 in a box. Investments were few. There were few ways in which money could be invested to earn interest except by securing it on land or on mortgage, or perhaps lending it to a neighbour on personal bond.

The Court occasionally favoured the City with borrowing money, and the citizens, to do them justice, were perfectly willing to lend, but the lending was in the nature of private loans and not of public borrowing. When the National Debt was started, although the pessimists of the time might shake their heads and prophesy all sorts of disasters from this innovation, there were a great many people who welcomed it with pleasure. No longer need they be troubled with money they had accumulated, and which they did not know how to dispose of, now they had the chance of investing it in Government securities, a method of investment which from the time of William III to the present day has always had the particular charm of safety. As will be subsequently shown,

the capitalists of those days largely availed themselves of this opportunity. Contemporaneously with the demand for the investments and the desire to buy and sell, a new profession sprang into existence.

In the Royal Exchange, stockbrokers and stock-jobbers were found, about the year 1693, busily engaged in dealing in the five million stock or so of National Debt available for purposes of transfer. By 1700, however, the Royal Exchange was deserted by them.

With the increase of the National Debt the business of stock-jobbing also tended to increase, and there seem to have been complaints of the excessive number of persons who devoted themselves to the business of brokers. These complaints, however, mostly arose from the public moralists, often at the time synonymous with disappointed speculators. The Legislature in 1734 passed an Act directed against stock-jobbing, directing that all contracts to putt upon, accept, or refute any public stock or securities and wagers relating to the value shall be void, and the money paid thereon restored or be recovered by action commenced in six months' time with double costs. A penalty was prescribed on persons making or executing any such putts or bargains. A penalty was also imposed on persons giving or receiving money to compound differences relating to stock not actually delivered. Brokers were required to enter all contracts in their books, and a penalty of £50 was imposed for each offence.

In 1762 a review of probably the first Stock Exchange book ever written appeared in the *Gentleman's Magazine*. The book was by J. Mortimer, and was entitled "Every Man his own Broker, or a Guide to Exchange Alley." It may be gathered from this work that "stock" in its then proper signification consisted of a certain quantity of merchandise or money which was made the foundation of trade and commerce, that the Joint Stock was the aggregate of money or merchandise, contributed by different persons, to be employed in trade or commerce for their joint benefit in proportion to their respective contributions. Further, it may be gathered that when a small number of persons in a private capacity formed such a joint stock they were called a co-partnership, and when a larger number obtained a charter to carry on any trade exclusively, and jointly contributed to it, they were called a company. Any proprietor of a certain stock in the common stock

could transfer it for a valuable consideration, which was either more or less than the sum originally contributed according to the profit produced by the trade

At the beginning of the eighteenth century the two principal companies, in whose stocks there were dealings, were the South Sea and the East India Company, and as proprietors were numerous the transactions of buying and selling naturally were of frequent occurrence.

It must be remembered also that at this time the Government, instead of levying a tax which would raise in the current year the sum wanted for that year, were in the habit of borrowing the money they required, and levying a tax only to pay interest for it. The lenders of the money had the right to transfer their proportion of the debt, the value of every hundred pounds then fluctuating according to the interest payable on money. The Public Debt became known as the stocks or funds

Stock-jobbing is said to have originated thus. Free liberty having been always given to all foreigners to buy and sell stock, many foreigners, particularly the Dutch, held large interests. Now, when stock was transferred, if the transfer had to take place at a public office, and to be done at the time of making the contract, it would have been impossible for persons abroad to seize advantageous opportunities of buying and selling, because the remittance could not with certainty be made in time; nor could proper letters of attorney be executed for the purposes of the transfer. It became, therefore, a reasonable custom to permit stock to be bought and sold for time, that is, to permit a contract to be made for any quantity of stock to be transferred at a future time and at a certain price, whether the price of the stock at that future time should be more or less than the price stipulated. Foreigners, particularly the Dutch, who were keen financiers, required agents to buy and sell for them, and it is largely due to foreign buying and selling of stocks that the profession of the broker arose. It became a necessity for an absent principal to employ an agent on the spot. It also became the custom for brokers to contract with each other for certain sums of stock without naming their principals, and at length under pretence of buying and selling for foreigners they bought and sold for themselves, or rather made contracts between themselves for buying and selling stock without having any stock

to sell on one side or money to buy it on the other, and indeed without the least design either to transfer or accept any part of the stock which was made the foundation of the contract.

In these "time contracts" the seller was called the bear, and the one who contracted to buy was called the bull. The first was probably called a bear from the proverb applied to those who sell contingencies, that they sell the bear's skin while the bear runs in the wood. The other was called a bull probably only by way of distinction from the bear. The writer whom I have already referred to states the nature of differences thus. He says, when "contracts for time" were made between persons who had neither stock nor money, they settled the account between them when the time came for making the transfer by paying the difference between the price of stock then and the price stipulated in the contract.

The following important cautions throw some light on Stock Exchange life at the time when Jonathan's was a favourite jobbers' haunt. They were given by a writer in good faith to the public—

- (1) Never remove your money at a loss but in cases of absolute necessity, but, instead of believing idle reports of bad news, wait patiently till the situation of public affairs has brought your stock to the value at which you bought it, or higher.
- (2) Never follow the advice of a man who would persuade you to be continually changing the situation of your money, for he is certainly influenced by some private motive.
- (3) When you receive bank notes for stock examine if they are above a year old. If they are, have them examined and marked at the proper office before you take them; and if you take the purchaser's draft on the banker's for the stock you sell, let the draft be drawn on the back of the receipt you are to give him, and then you will not part with the receipt till you have received your money, and you will be sure to part with it then as you cannot receive your money without it.
- (4) Be careful what letters of attorney you give. let them be for some limited and particular act, for a general letter of attorney gives a most absolute and unlimited power, and by this people have sometimes put their property into the hands of jobbers, who have lost it in the Alley, and in

the meantime have amused the proprietor by a punctual payment of the half-yearly dividend.

- (5) Take the numbers and principal contents of all public securities for money in a pocket memorandum book to be kept always about you, so that if you escape from a fire with only your clothes you may be able to swear to your property.
- (6) When you receive a draft on your banker get it paid as soon as convenient any time before four in the afternoon of the same day, for a man may have cash at his banker's in the morning and draw it all out before night; and if you present your draft the next day, and the banker shall have stopped payment with cash of your principal in his hands sufficient to pay your draft, you have no remedy but to come in as a creditor of the banker's.

A good deal of the advice given then is applicable at the present day, but the counsel is more interesting by the side-light that it throws upon the necessity for presenting bankers' drafts by reason of the instability of these institutions—a contingency which the possessor of a banker's draft had seriously to contemplate

There is but little doubt that the development of Joint-Stock enterprise advanced by leaps and bounds from the accession of William and Mary. The Dutch, a great commercial nation, with a knowledge of finance that they acquired from Italy, from the Venetians and the Lombards, followed in the train of William, and London rapidly became one of the great money markets of the world.

In 1694 the Government, as an expedient for raising money, determined upon establishing a National Bank. The idea emanated from the ingenious brain of William Paterson, a Scotchman, but it was not at once carried into effect, for it met with a most strenuous opposition in the City. Nevertheless, when it was founded, its capital of £1,200,000 was subscribed in a few hours. It remained the sole Joint-Stock Bank till 1834. The year 1698 witnessed the passing of the Bill establishing the General Society, a public company which took over the monopoly of the old East India Company. The subscription list was opened on the 14th of July in that year at the Hall of the Mercers' Company in Cheapside, and such a scene as may nowadays be witnessed on the opening of a public



subscription for a popular Government loan was there witnessed. The creation of the National Debt was a little earlier than the establishment of the Bank of England. The borrowings of William for the purposes of his wars is distinguishable from previous borrowings of earlier sovereigns by reason of the loans being thrown open to public subscription. Prior to William's time our sovereigns had been content to raise the money from the goldsmiths or from the City Companies, but this practice now ceased. There is little doubt that the creation of the National Debt was politic, and ultimately tended to preserve the crown for the Georges by enlisting the moneyed classes of the country as supporters of existing institutions.

At this period eight per cent was paid by the Government, a rate of interest not too high, having regard to the clouded political horizon. The year 1720 saw the rise of the Royal Exchange and the London Assurance Corporations, two well-known institutions. Whilst the creation of the National Debt and the Bank of England promoted legitimate speculation, as already shown, at the same time a wild frenzy of speculation sprang up, which culminated in the bursting of the South Sea Bubble.

From the christening of New Jonathan's as the Stock Exchange in 1773 to the opening of the present Stock Exchange in 1802 a period of nearly thirty years elapsed, naturally the continual increase of the debt and the opportunities afforded for buying and selling Government funds led to a multiplication of the number of persons who dealt in securities. The business of brokers and jobbers, notwithstanding the outcries which arose from time to time as to the immorality of time bargains, was essential to the existence of a commercial nation. Our Courts of Law, which as a rule follow the dictates of business and commercial usage with stately steps as early as the time of George I, declared that an action would lie on an implied promise to pay—the old action of *assumpsit* when a party had a difference arising out of a contract for the sale of stock in his hands. The party who held this difference was declared to be a receiver of the money to the others' use (*Dutch v. Warren* (1720), 1 *Stra.* 406). This statement of the law met with the approval of that great commercial judge, Lord Mansfield, in *Moses v. Macferlan* (1760), 2 *Burr* 1008.

Whilst the number of persons employed as brokers and jobbers

grew, naturally there was an increasing demand for accommodation and facilities for carrying on business.

At one period a portion of the rotunda of the Bank of England became a centre for the transaction of business in the Public Funds. Probably, also, the markets overflowed into the streets and courts round and about Change Alley.

It is doubtful whether brokers or jobbers could ever have found sufficient privacy to carry out their mutual dealings. The energetic client might desire to follow his broker. He could not well be restrained from entering a public place. The necessity for some convenient building where the work of buying, selling, or negotiating could be transacted without interference became imperative. Accordingly a number of members combined to buy a site at Capel Court, on which was subsequently erected the first portion of the Stock Exchange building. The capital subscribed was £20,000, which was divided into four hundred shares of £50 each. To this new Stock Exchange the business carried on elsewhere was transferred. New Jonathan's, at any rate in its later days, had been under the management of a General Committee; and the expenses of management had been defrayed by voluntary subscription. This Committee, in addition to the business of management, exercised judicial functions as a domestic forum for the liquidation of defaulters' accounts, and for other purposes, probably relating to the conduct of members, and the settlement of disputed bargains. The first Committee of the Stock Exchange consisted of the nine promoters of the scheme and twenty-one other proprietors. This Committee met at a neighbouring tavern, and elected members by ballot, the subscription to the Stock Exchange then being ten guineas. The deed of settlement subsequently drawn up recited that whereas the Stock Exchange in Threadneedle Street where the stockbrokers and stock-jobbers lately met for the transaction of their business had been found to be too inconvenient, William Hammond, and others, who were appointed trustees and managers, came to a resolution to erect a more commodious building for that purpose. On the opening of the Stock Exchange it appeared that there was a list of 500 subscribers.

In March, 1802, the following list of stocks then dealt in appears in the *Gentleman's Magazine*—Bank Stock, Consols, Navy, Long and Short Annuities, India Stock, India Bonds, Exchequer Bills, Funds,

South Sea Stock, Old Annuities, New Annuities, Omnium, Irish 5 per cents, Imp. 3 per cents, English lottery tickets, English prizes—a list which gives considerable matter for reflection, when it is contrasted with the present list of securities dealt in, since it so clearly denotes the enormous growth of the joint-stock system in the last hundred years.

Notwithstanding the opening of the House, business in the foreign funds continued to be carried on in the Royal Exchange, and continued to be so carried on till 1822.

The Royal Exchange had been an original meeting-place for stockbrokers and jobbers, and they had a walk there, but complaints having been made that the building was being diverted from the objects contemplated by its founder, in 1698, or at any rate by the year 1700, the majority of them migrated, although the Corporation of the Royal Exchange, who had joined in abusing them, soon repented of their action, and tried to stop them from leaving by inserting conditions in their bonds as brokers, binding them not to assemble in Change Alley. This, on the whole, however, had no effect, for some business was still carried on there.

So far we have traced the history of the Stock Exchange to the beginning of the nineteenth century. Before passing on to narrate its progress up to the present time, something must be written of the estimation it was held in by public opinion in its earlier days. It was stigmatized as immoral, a social curse, and a public evil; yet, though frequently the subject of invective by many who did not scruple to avail themselves of the means of speculation it afforded, it continued to flourish, and men in increasing numbers were found devoting themselves to its business. At a time when the telegraph was unknown, and communication abroad uncertain, in any case involving delay, false reports often raised or depressed the market. Nevertheless, praiseworthy efforts were made and expense incurred by the great financial houses of the day to obtain intelligence. A highly organized secret system of transmitting news undoubtedly existed during the period of the Napoleonic wars. To obtain early and truthful tidings of important events meant certain wealth to the fortunate possessor of the knowledge. Whilst Napoleon was trying to exclude British trade from the Continent, the packet which, in defiance of his edicts, carried contraband goods

to some French or Dutch port often sailed back with secret intelligence from some trusted emissary of what had transpired on the Continent. We can follow the journey from Dover to London of some confidential representative of one of the great commercial houses, the secret interview with the principal in the London Counting House, the consequent sale or purchase of funds, hours, maybe, or even days, before other members of the House were apprised of the news. An upward movement in the funds might be an intelligent forecast of coming events, or based on surer data. More often it was the latter. Fortunes were made or lost in a few hours, and the public were left to wonder whether by skill or good luck.

The subsequent growth of the Stock Exchange and its membership is contemporaneous in a large measure with the progress of trade and commerce throughout the world. Bursts of speculation have always attracted new candidates for admission. Amongst noticeable periods, that of 1825 was especially marked with great prosperity. The three per cents rose in July, 1825, to 96, an elevation which they had not previously attained since 1792. The stocks of many banks and joint-stock companies advanced in similar proportion, some to a greater extent. At the beginning of the year there were 276 joint-stock companies in existence in Great Britain, the subscribed capital of which was no less than £174,000,000 sterling. Amongst these, Canals and Docks, Railway, Gas, Insurance, and Banking companies were the principal. Railways then, it is interesting to note, were, both in point of number and subscribed capital, the chief objects of public solicitude. Of the 276 companies, 48 were railway companies, with a capital of £22,454,000, whilst two newspaper companies only existed. The boom in commercial enterprise unexpectedly terminated, and a period of prosperity was followed by disaster.

The great railway boom cannot very well be left unnoticed in relating the history of the Stock Exchange.

In 1845 in the official list of the Stock Exchange were quoted no less than 280 different kinds of railway shares. In December, 1849, the number had fallen to 160. It may be permissible to quote from the *Railway Times* of September 30th, 1849. "From the fall of dividends, the writer says, on all the lines, and continual pressure of calls, the distrust of railway property became such that towards

the autumn of 1849 large masses of it were practically unsaleable. The retrospect of the third quarter of 1849 is the most dismal picture that it has ever been our duty to lay before our readers. Gloom, panic, and confusion appeared to have taken possession of the railway market, and a commensurate depression in the value of all lines, good, bad, and indifferent, has been the result. A glance at the market will suffice to convey a knowledge of the overwhelming depreciation which now exists—a depreciation including even the principal lines, the main arteries of the internal traffic of the country. Within the last few weeks the stock of the London and North-Western Company has fallen twenty per cent.” In some of the journals the loss in September, 1849, sustained by the then holders of railway shares has been estimated at so large an amount as 180 millions sterling. On the 1st of January, 1846, London and North-Western stock stood at 215, on 1st January, 1850, it stood at 109. To such vicissitudes was the railway market at that time exposed. Thenceforward railway stocks slowly improved. The increase of membership during this period rendered it necessary to provide additional accommodation for the members of the “House,” and accordingly the building of 1802 was pulled down and entirely rebuilt.

In 1850 there were upwards of 900 members of the Stock Exchange.

Reference has already been made to the dealers in foreign funds, and some statement as to the rise of the Foreign Market may not be inappropriate here. Foreign States were frequently in the habit of borrowing money from English merchants, and this without the Royal assent. They came over as private debtors might, and applied for a loan, almost invariably of a temporary character. In 1730 Sir Robert Walpole, on the occasion of the Emperor (Charles VI) desiring to borrow £400,000 in London, introduced a Bill prohibiting loans to Foreign Powers without the Royal Licence under the Privy Seal. Mr. Daniel Pulteney opposed the Bill, his objection being that whilst the Bill restrained our merchants from assisting the Princes and Powers of Europe, it permitted our stock-jobbers to trade in their funds without any interruption. A merchant Member of the House, who supported the Bill, said that he could make it appear that the Emperor's agents had been in Change Alley; that he knew a particular individual who had been applied to for £30,000 and others for very large sums, but refused

to advance them as fearing the displeasure of the Government. The Bill was also opposed by Sir John Barnard, Member for London. Nevertheless, it became law. Its duration, however, was limited for two years, and it was never renewed. Foreign borrowings or loans, however, did not become of much importance till after the Peace of Paris in 1814. At that time the French Government contracted a loan with the Messrs Baring to discharge the indemnities they were compelled to pay to other nations in pursuance of the provisions of this treaty.

The following is a detailed list of the foreign loans contracted in this country up to the year 1825—

## 1821—

Spanish . . . . £1,500,000 5 p c. at 56 .. A. F. Halderman & Co.

## 1822—

Chili . . .	1,000,000	6	„	„	70	. Hallett Brothers
Columbian	2,000,000	6	„	„	84	. Henry Graham & Co.
Prussian .	3,500,000	5	„	„	84	.. N. M. Rothschild
Peruvian	450,000	6	„	„	88	. Frys & Chapman
Russian .	3,500,000	5	„	„	82	. N. M. Rothschild

## 1823—

Austrian .	2,500,000	5	„	„	82	N. M. Rothschild
Portuguese	1,500,000	5	„	„	87	B. A. Goldschmidt
Spanish	1,500,000	5	„	„	30 $\frac{1}{4}$	.. J. Campbell & Co.

## 1824—

Brazilian .	3,200,000	5	„	„	75	. T. Wilson & Co.
Buenos Ayres	1,000,000	6	„	„	85	. Barny Brothers
Columbian .	4,750,000	6	„	„	88 $\frac{1}{2}$	B. A. Goldschmidt
Greek . . .	800,000	5	„	„	59	.. Loughnan
Mexican . .	3,200,000	5	„	„	58	. B. A. Goldschmidt
Neapolitan	2,500,000	5	„	„	92 $\frac{1}{2}$	N. M. Rothschild
Peruvian .	750,000	6	„	„	82	.. Frys & Chapman

Since 1824 the number of foreign borrowings has enormously increased, and London holds the proud position of the chief money market in the world.

Reference has been made to the establishment of the Bank of England in 1694. Its charter received confirmation by the Bank of England Act, 1694 (5 & 6 Will. & Mar. c. 20), s. 20. Its duration was extended to 1705, and these charters have been renewed from time to

time Although the history of the Bank of England is only incidental to the history of the Stock Exchange, yet some account of this great institution may not be out of place. It has been previously stated that its original capital was £1,200,000. This sum was lent to the Government at 8 per cent interest, and £4,000 was allowed for management The original capital of the Bank had been from time to time augmented until in the year 1816 it reached the sum of £14,553,000, upon which the stockholders drew dividends At this figure it still remains

The last year in which the charter of the Bank was renewed was 1844 ; previously to that it had been renewed in 1833, when it had been provided that a renewal should last for twenty-one years with a power of modification by Parliament at the end of ten years This power was taken advantage of by Sir Robert Peel, who took the opportunity of moving certain resolutions in the House of Commons indicating his views These were as follows—

- I That it is expedient to continue to the Bank of England for a time to be limited certain of the privileges now by law given to that corporation subject to such conditions as may be provided for by any Act to be passed for that purpose
- II. That it is expedient to provide by law that the Bank of England should henceforth be divided into two separate departments, one exclusively confined to the issue and circulating of notes, the other to the conduct of the banking business
- III That it is expedient to limit the amount of securities upon which it shall be henceforth lawful for the Bank of England to issue notes payable to the bearer on demand, and that such amount shall only be increased under certain conditions to be prescribed by law.
- IV. That it is expedient to provide by law that a weekly publication should be made by the Bank of England of the state both of the circulation and of the banking departments.
- V. That it is expedient to repeal the law which subjects the notes of the Bank of England to the payment of the composition for stamp duty.
- VI That in consideration of the privileges to be continued to the Bank of England the rate of fixed annual payments

to be made by the Bank to the public shall be £180,000 per annum

- VII That in the event of any increase of the securities upon which it shall be lawful to issue such promissory notes as aforesaid, a further annual payment shall be made by the Bank of England to the public over and above the £180,000 equal to the net profit owing therefrom.
- VIII. That it is expedient to provide by law that such banks of issue in England and Wales as now issue promissory notes payable to bearer shall continue to issue such notes subject to such limitations as may be provided for that purpose
- IX That it is expedient to prohibit by law the issuing of any notes payable to bearer by any bank not now issuing such notes, or by any bank to be hereafter established in any part of the United Kingdom.
- X That it is expedient to provide by law for the weekly production of the amount of promissory notes payable to bearer on demand circulated by any bank authorized to issue such notes.
- XI That it is expedient to make further provision by law for the regulation of joint-stock banking companies.

The resolutions moved by Sir Robert Peel reflected his views, which he supported by his speeches in the House of Commons. These views, however, were the outcome of the deliberations of a Committee which had been appointed in 1832 to take evidence as to the expediency of renewing the Bank Charter. The highest financial authorities of the time gave evidence before this Committee. The Bank Charter Act subsequently passed through Parliament without any serious opposition.

The governing body of the Bank of England now consists of a governor, a sub-governor, and twenty-four directors. It is the custodian of the Government money; it holds the cash reserves of the other banks of the country, and is substantially the protector of our financial system.

It makes the bank rate, circulates or withdraws gold from circulation, aids the money market and the national credit in times of commercial stress, and more especially does it manage the business relating to the National Debt.



In 1892 a Bank Act was passed making provision for the grant of a supplementary charter.

To return to the subject of the National Debt, the origin of which has already been mentioned, some account of its composition may be given. On the conclusion of the peace of Ryswick, in 1697, it amounted to about £20,000,000, and the revenue was deficient by no less than £5,000,000, a very considerable sum for a Government, particularly in those days. Besides this deficiency, Exchequer bills were at a discount of 40 per cent. It therefore became necessary that the national credit should be redeemed, and for this purpose further borrowings had to be made.

These Exchequer Bills were for the first time issued in the preceding year, owing to the scarcity of specie occasioned by the re-coining in that year. They were made out for sums of £5 and upward, and bore interest at the rate of  $7\frac{1}{2}$  per cent. The interest, however, was irregularly paid, and there was probably no great confidence in the stability of the Government. To these and also possibly to the distrust that was felt of the new form of security may be attributed the considerable fall in their face value. The method that the Government adopted was to empower the Bank to augment its capital by receiving subscriptions which could be paid in Exchequer bills. The effect of this was to restore the bills to something like their proper value. From 1697 until 1897, when they were last issued, Exchequer bills were often at a discount, when they either had to be converted into permanent stock or the interest raised.

Treasury or, as they were formerly known, Exchequer bonds are also issued by the Treasury under the Exchequer Bills and Bonds Act, 1866 (29 & 30 Vict., c. 25). They are distinguishable from Exchequer Bills, since they are securities which run for a definite period which cannot exceed six years. At the end of the period the security matures, and the holder must present it for payment, for interest no longer runs.

Treasury Bills represent a means resorted to by the Government of borrowing money for temporary purposes. The Government issues notes known as Treasury Bills; the bill is in a prescribed statutory form, payable at a date not more than twelve months from the original date of the bill. The amount and rate of interest are specified.

Bank annuities were created in 1726 for the purpose of cancelling Exchequer Bills that had been issued to defray the arrears of the Civil List, the capital was irredeemable. Consols, or Consolidated Annuities, commenced in 1731. They took their title from an Act of 1751, the statute of that year, the 25 Geo 2, c 27, consolidating several separate stocks bearing 3 per cent into one general stock.

At one time it had been the custom to allocate specific portions of the Revenue to each part of the debt, and the rate of interest varied considerably, but this was found to be an inconvenient process, so the whole of the revenue was ultimately hypothecated for the payment of interest.

Government loans are termed either funded or unfunded. The distinction exists between those loans for whose payment a date is not fixed, and those for whose payment a date is fixed. The former represent the funded, the latter the unfunded debt.

Reference has already been made incidentally to the Act of 1734 which made contracts and compounding for differences not merely void but illegal, and in treating of the History of the Stock Exchange the attitude of the Legislature on this matter requires consideration.

Prior to the reign of George II wagering transactions or time bargains on the Stock Exchange were not interfered with by legislation, although the Acts for enlarging the Capital Stock of the Bank of England had clauses dealing with time bargains in Bank Stocks (Bank of England Act, 1697 (8 & 9 Will 3, c 20)), and indeed the practice of making time bargains was then only of comparatively recent origin, but the outcry that followed the bursting of the great South Sea Bubble was so great that the legislation subsequent was only a matter of time. In 1733 a Bill was introduced into the House of Commons to prevent the scandalous practice of stock-jobbing, which passed by a majority of six only—the numbers being 55 against 49. But it underwent so many alterations in the Lords that it was subsequently dropped. The following year a Bill was introduced by Sir John Barnard, one of the City members—a gentleman of the highest reputation for commercial experience—and the Bill successfully passed both Houses. It is generally known as Sir John Barnard's Act (7 Geo 2, c. 8).

Some idea of the spirit that influenced the Legislature at that

time may be gathered from the title of the Act. It is called "An Act to prevent the infamous practice of stock-jobbing," and it recites that "whereas great inconveniences have arisen and do daily arise by the wicked, pernicious, and destructive practice of stock-jobbing whereby many of His Majesty's good subjects have been and are diverted from pursuing and exercising their lawful trades and vocations to the utter ruin of themselves and families, to the great discouragement of industry, and to the manifest detriment of trade and commerce" It then proceeds to enact that "all contracts and agreements whatsoever upon which any premium or consideration in the nature of a premium shall be given or paid for liberty to put upon, or to deliver, receive, accept, or refuse any public or joint-stock or other public securities whatsoever or any part, share, or interest therein, and also all wagers and contracts in the nature of wagers, and all contracts in the nature of putts and refusals relating to the then present or future price or value of any such stocks or securities as aforesaid shall be null and void to all intents and purposes whatsoever and all premiums, sum, or sums of money whatsoever which shall be given, received, paid, or delivered upon all such contracts or agreements or upon any such wagers or contracts in the nature of wagers as aforesaid shall be restored and repaid to the person or persons who shall give, pay, or deliver the same, who shall be at liberty within six months from and after the making such contract or agreement or laying any such wager to sue for and recover the same from the person or persons to whom the same is or shall be paid or delivered with double costs of suit by action of debt founded on this Act to be prosecuted in any of His Majesty's Courts of Record in which action no essoin, protection, wager of law, or more than one imparlance shall be allowed, and it shall be sufficient therein for the Plaintiff to allege that the defendant is indebted to the Plaintiff or has received to the Plaintiff's use the money or premium so paid or received whereby the Plaintiff's action accrued to him according to the form of this statute without setting out the special matter."

The statute also inflicted penalties both for entering into such contracts and for making payments in respect thereof, not only on the parties but on brokers, agents, scriveners, or other persons negotiating, transacting, or writing any such contracts, bargains, or agreements. Another section was enacted for preventing

“ the evil practice of compounding or making up differences for stocks or other securities bought, sold, or at any time herein-after to be agreed so to be ” The section runs “ Be it further enacted . . . that no money or other consideration whatsoever (except as hereinafter is provided) shall . . . be voluntarily given, paid, had, or received for the compounding, satisfying, or making up any difference for the non-delivering, transferring, having or receiving any public or joint-stock or other public securities or for the not performing of any contract or agreement so stipulated and agreed to be performed, but that all and every such contract and agreement shall be specifically performed and executed on all sides, and the stock or security thereby agreed to be assigned, transferred, or delivered shall be actually so done, and the money or other consideration thereby agreed to be given and paid for the same shall also be actually and really given and paid, and all and every person and persons whatsoever who shall . . . voluntarily compound, make up, pay, satisfy, take, or receive such difference, money, or other consideration whatsoever for the not delivering, transferring, assigning, having, or receiving such stock or other security so to be agreed to be delivered, transferred, assigned, had, or received as aforesaid (except in the manner hereinafter provided) shall forfeit and pay the sum of one hundred pounds to be recovered by action . . . ”

It is unnecessary to deal with the other stringent clauses of this Act, it is sufficient to say that the objects sought by the Act were the prevention of the making of contracts between persons not actually possessed of such stock, for the sale or purchase of stock at a future period without the execution of such contract by an actual transfer of the stock, thus attempting to suppress the practice of merely paying or receiving the difference in the market value of stock on the day named for the completion of the fictitious bargain such a transaction amounting in fact to a mere wager on the price of the stock.

The object aimed at by Sir John Barnard's statute was only partially attained, for the Courts held that the statute did not apply to Foreign Stocks nor to Shares in Companies, but only to English Public Stocks. Lord Mansfield in *Mitchell v. Broughton* (1701), 1 *Ld Raym*, 673, said that “ the Statute must be construed strictly: it destroys bargains ”; and where a plea was put upon the

record that a bond was given for securing a moiety of a sum paid for compounding and making up differences, and that such bond was consequently void by reason of this Act, he held that the plea was not a defence against an action brought on the bond, that the offence relied upon as furnishing a ground of defence was not *malum per se* but only prohibited by the Act; that where, as in this case, one or two persons had paid money for another and upon his account, and the latter had given his bond to receive the repayment of such money, such a transaction was not prohibited. For "the person giving the bond is not concerned in the use which the other makes of the money, he may apply it as he thinks proper. Between these two this was certainly a pure, honest transaction." Now Sir John Barnard's Act has been repealed, and since then, except in so far as Stock Exchange transactions fall within the Gaming Acts, they are unaffected by special legislation.

Allusion has been made both to stockbrokers and stock-jobbers in earlier pages. In describing the history of the Stock Exchange, and before proceeding to treat of the modern functions of stockbrokers and jobbers, some account of the origin and general significance of the term broker may be interesting. Brokers are described by the Stat. 1 Jac. 1, c. 21, as persons employed by "merchant English and merchant strangers and tradesmen in the contriving, making, and concluding bargains and contracts to be made between them concerning their wares and merchandises . . . and monies to be taken up by exchange between such merchant and merchants and tradesmen." Under the title *Merchant C*, Chief Baron Comyn defines them "as persons employed among merchants to make contracts between them and to fix the exchange for payments of wares sold and bought." In later times Chief Justice Tindal defined a broker "as one who makes bargains for another and receives a commission for so doing, as, for instance, a stockbroker." Abrocament, that is brokerage, is described by Spelman as signifying the buying of goods by wholesale in whole bags or packages before delivery or conveyance to the market and afterwards the separating the same into portions or allotments. The term "broker" is of extreme antiquity in the Statute books. It appears in the *Statuta Civitatis Londoni* in the 13th year of Edward I that no brokers were to be in London but those admitted and sworn by the Mayor and Aldermen. By Section 8 of the Statute of James I, c. 21, already

alluded to, brokers are mentioned in London using and exercising the ancient trade of brokers between merchant and merchant

The term received legal notice as applied to those transacting business in the public funds in the Bank of England Act, 1697, three years after the date of the incorporation of the Bank of England, and the allusion to brokers is far from complimentary. The Act recited "that of late brokers had carried on most unjust practices in selling and discounting Tallies, Bank Stock, Bank Bills, Shares and Interests in joint stocks and other matters and things, and had wilfully combined and confederated themselves together to raise or fall these from time to time as might most suit their own private interest and advantage, which is a very great abuse of the said ancient trade (of a broker generally) and employment and is extremely prejudicial to the public credit of this kingdom and to the trade and commerce thereof, and if not timely prevented may ruin the credit of the nation and endanger the Government itself" The Act then declares that none were to act as brokers without a licence from the Lord Mayor and Court of Aldermen. They were to be compelled to take certain oaths and to give bonds for their good behaviour Their number was limited to one hundred. Their names and places of abode were to be affixed to the Guildhall and Royal Exchange. They were subjected to heavy penalties if they dealt for themselves in any merchandise or in those tallies, stocks, etc Their charges for brokerage were limited to 2s 6d per cent on all public funds, and to 1s per cent on Exchequer Bills They were to keep books which were to be produced when reasonably required By the statute 6 Anne, c 16, s. 4, all brokers were required to be admitted by the Court of Mayor and Aldermen of the City for the time being under such restrictions and limitations for their honest and good behaviour as the Court shall think fit and reasonable, and were required upon each their admission to pay to the Chamberlain of the City for the time being the sum of 40s, and also yearly pay the sum of 40s. on the 29th day of December in every year. A penalty of £25 was imposed upon persons acting as brokers within the City without being admitted as such By the Statute 10 Anne, c 19, s 121, a penalty was also imposed upon every person who should be employed as a broker on behalf of any other person to make any bargain or contract for the buying or selling of any Tallies, Orders,

Exchequer Bills, Exchequer Tickets, Bank Bills, or any Share or Interest in any joint-stock created by Act of Parliament and who should take or receive directly or indirectly any sum of money or other reward exceeding the sum of 2s 9d per cent The Private Statute 57 George 3, c ix, increased the fee on admission to £5, and the penalty upon a person for taking upon himself to act as a broker to £100

In the year after the passing of the Statute of Anne already referred to, the Court of the Mayor and Aldermen of the City of London made certain rules and regulations concerning brokers which for many years continued in force. Every person on being admitted a broker had to take an oath, the form of which was prescribed by the rules and regulations He also had to enter into a bond to the Mayor, Commonalty and Citizens of London in a penalty of £500. The condition of the bond was that the broker should on every contract made by him declare and make known to such person or persons with whom such agreement was made the name or names of his principal or principals, either buyer or seller, if thereunto required, and that he should not directly or indirectly by himself or any other deal for himself in buying any goods, shares, or merchandise to barter or sell again upon his own account or for his own benefit or advantage, or make any gain or profit in buying or selling any goods over and above the usual brokerage.

In 1870 the powers of supervision which the Corporation had hitherto exercised over brokers were restricted to the receiving fees for admission, etc, and to striking off the list a broker convicted of felony. In 1884 the City's authority over brokers was ended. The Act by which this was effected was entitled "An Act for the Relief of the Brokers of the City of London." At the present time admission by the Court of Aldermen and payments by brokers in respect thereof no longer exist.

Before closing this account of the history of the broker, it should be noticed that since members of the public are not allowed to enter the Stock Exchange, it follows that they cannot deal on the Stock Exchange except by employing a broker who is a middleman, although there is nothing to prevent two members of the public, one a seller and the other a buyer, carrying out the transaction without invoking the middleman's assistance The employment of the broker and the exclusion of the public from direct dealings with

the jobber were, no doubt, gradually evolved in course of time from the nature of the business pursued. When brokers and jobbers frequented the Coffee Houses about Change Alley "every man could be his own broker." All that the jobber would demand would be that the person with whom he had dealings should be of sufficient financial ability to give him assurance that he would adhere to his bargains. In course of time it may be not unnaturally supposed that the public found that the jobbers declined to deal with strangers and would only transact business with brokers whom they knew. Thence it was an easy transition to insist upon the broker's personal responsibility to the jobber for every contract that he entered into for his principal, and the consequent exclusion of the public from all direct dealings with the jobber.

Prior to the opening of the present Stock Exchange in 1802 there were rules and regulations in existence drawn up by a committee, and the relationship of broker and jobber seems to have been determined by this body. In the course of the growth of business it would seem but reasonable that broker and jobber should have some sort of assured guarantee of the other's financial position. Hence the Managers, a body elected by the shareholders from among themselves and distinct from the Committee, naturally insist upon the solvency of any would-be applicant for admission to the House. One of the rules, therefore, to be expected would be one fixing the terms of admission. The alteration of rules in the past to meet the necessities of business is, however, a matter of small moment and possesses but slight historical interest. Later on it will be necessary to refer to the present rules that regulate admission.

Further boom periods which might be mentioned are the Kaffir boom of 1894-5 and the rubber boom of 1912. During the latter boom the price of the raw commodity reached 12s. 6d per lb. In view of the present Stock Exchange rule which prevents dealings in results a few remarks on the happenings of the time may be useful. New companies were formed by the score, and such was the fever of the public that subscriptions poured in for all of them irrespective of their merits. Quite a number of prospectuses gave only the vaguest information, but the only thing that the public were interested in was the chance of obtaining an allotment and selling it at a profit. The subscription lists of these new companies very



rarely remained open for more than a few minutes, and it was a common occurrence for a broker to lodge an application on behalf of a client and immediately sell the result of the application at a heavy premium. In some instances he would receive no allotment, in which case the bargain would become null and void, as he would have nothing to sell. Such transactions do not take place at the present time, as they are barred by the rule previously referred to.

The Stock Exchange is the property of the proprietors, or shareholders, and not the members. At the present time every member is not a shareholder but the Managers have rightly resolved that in future every applicant for membership must become a shareholder in the Stock Exchange. On the other hand, not all the shareholders are members. The administration is carried out by the Trustees and Managers (appointed by the shareholders), and the Committee for General Purposes in a dual capacity. Unsuccessful efforts have been made in the past by certain members for the abolition of this method of management, but, although much can be said in favour of their suggestions, it is only fair to state that the dual system of management has, in the past, worked exceedingly well.

The development of the Stock Exchange may be briefly recounted. The amount originally subscribed for its erection was £20,000, and subscribers received dividends at the rate of 20 to 30 per cent. In 1854 dividends ceased, and the proprietors had to pay up a considerable sum for the purpose of rebuilding. A subsequent extension is known as the New House, at the opening of which the late King Edward (then Prince of Wales) was present. The capital of the Stock Exchange is now £720,000 in 20,000 shares, £36 paid. The amount of debentures authorized is £750,000, and the amount created and issued £500,000—£50,000 4 per cent and £450,000 3 per cent (£294,800 outstanding). Shareholders receive dividends at a substantial rate, the payments for the last four years being 1927-8, £11 per share, 1928-9, £13 per share, 1929-30, £11 per share, 1930-1, £13 per share. The number of members at the present time is approximately 3,950.

In the Great War, 1914 to 1918, British finance played no small part in securing ultimate victory, and in this connection may be noticed the ready and willing submission of all members of the Stock Exchange to the restrictions imposed upon them. Temporary regulations were, of course, necessary. Dealings for the

account were prohibited, all transactions being on a cash basis. No new carry-over business was allowed to be entered into, but all positions open at the outbreak of war were allowed to be carried on. In order to relieve pressure as much as possible on their greatly depleted staffs the banks requested the Stock Exchange to close on Saturdays. This request was acceded to by the Stock Exchange, and the House thereafter remained closed on Saturdays until September, 1931.

The period following the War was marked with a certain revival of activity which reached its height in the year 1920. A slump followed, the year 1921 being one of great depression. This culminated in the spring of 1922 in the failure of Ellis & Co., a firm in a very large way of business. To the general public this is better known as the firm in which Gerard Lee Bevan was the principal partner. He was subsequently arrested on a charge of fraud and sentenced to seven years' imprisonment. Among the companies connected with this failure may be mentioned British Glass Industries, Amalgamated Industrials, and City Equitable Fire Insurance.

Other periods of activity were the rubber boom of 1925 (not of the same proportions as the previous boom in 1912) and the industrial boom of 1928. During this latter period companies of all descriptions were floated, the shares rising to enormous premiums in a very short time. The shares of old-established companies also reached prices which had no relation whatever to the earning powers or position of the company. A practice which became prevalent at this time was that of selling the foreign rights of the company and floating a subsidiary company, which was usually known by the same name as the parent company with the addition in parenthesis of either the word "Foreign" or "Overseas". During the slump which followed in 1929 most of these subsidiary companies went into liquidation, as did also a number of the parent companies. Of those which still survive the greater percentage are now quoted at a substantial discount and dealing in them is more or less a matter of negotiation.

The year 1929 is notable for what is known as the Hatry crash. Clarence C. Hatry and his co-directors were arrested for frauds committed by them as directors of various companies formed for the purpose of floating loans and new issues. The learned Judge (Mr. Justice Ivory) referred to these frauds as "the most appalling frauds

that have ever disfigured the commercial reputation of this country ” Commenting on the case, the *Law Journal* (1st February, 1930) said “No previous case had the distinguishing feature of the Hatry case—what the Judge described as ‘wholesale forgeries of spurious securities in trustee stocks, which neither banker nor broker nor any member of the public would dream of suspecting to be otherwise than genuine’ It was this feature which made it inevitable that the person chiefly responsible should receive condign punishment, and Clarence Hatry was given the maximum sentence allowed by the law for this offence—fourteen years’ penal servitude, the same sentence incidentally as was passed on Jabez Balfour in respect of the Liberator frauds.”

The period from 1929 onwards has been one of continued depression such as has not previously occurred within the memory of most present members.

Some reference might be made to the world financial crisis of 1931, in so much as it has affected the Stock Exchange. In August the Committee announced that on and after the 19th September the House would be opened on Saturdays This was the first occasion on which the House was opened for business on a Saturday since the War, and it was intended as an indication to the general public that the members were willing to do their part in helping to create a revival in trade The week preceding the 19th September was marked by heavy withdrawals of gold by foreign countries from the Bank of England, and the first Saturday opening witnessed the dumping on the market from abroad of large amounts of British Government and other stocks, causing a considerable fall in prices The Saturday opening was followed by an announcement by the Committee on Sunday the 20th September that the Stock Exchange would be closed on Monday the 21st September On the Sunday also the Bank of England announced an increase in the Bank rate to 6 per cent, and the Cabinet, in order to stop the outward flow of gold from the country, decided to bring a Bill before Parliament on the following day for the suspension of the Gold Standard. The closing of the Stock Exchange was intended to stop speculation while the Bill was being passed The gravity of the situation will be seen when it is realized that neither the Stock Exchange nor the Bank of England had made such announcements before on a Sunday. The Bill was introduced on Monday the 21st September

and passed through all its stages, receiving the Royal Assent on the same day. The Stock Exchange remained closed on the Tuesday also, but reopened for business in the usual manner on Wednesday the 23rd September. On Friday, the 25th September, with a view to stopping all means of speculation temporary regulations, as under, came into force.

(1) As and from the 26th September all bargains must be for cash, and may not be continued from day to day

(2) No fresh option business may be transacted

Although not actually mentioned in the regulations, contango positions which were already open were allowed to be continued. These regulations remained in force until the 16th November, 1931, from which date dealings were again allowed for the account instead of for cash. The restrictions on new option and carry-over business still remained in force.

Option dealing was again allowed as from the 21st December, 1931, but it was not deemed advisable to lift the remaining ban, that on carry-over business, until the 1st February, 1932.

In this short history of the rise of the Stock Exchange it is easy to trace how closely its prosperity has been determined by the general prosperity of the country. From small beginnings it has grown to its present dimensions, and there is no doubt that its members are of a very different social class from those who frequented Garraway's and Jonathan's in the middle of the eighteenth century. From a calling on which all sorts of obloquy was heaped, stockbroking has fought its way into recognition, and it has for many years numbered amongst its ranks many high-minded and capable citizens. Its public spirit is well known, its charity liberal, and the different organizations in connection with the Stock Exchange are numerous. But as they concern more the social life of the members than the subject dealt with by this book, it is not proposed to refer to them.

## CHAPTER II

### THE GOVERNMENT OF THE STOCK EXCHANGE

THE London Stock Exchange is in reality a building vested in certain proprietors and used for the purpose of carrying on a market for stocks and shares. It is not regulated in any way by charter or statute. Its management owes no duties to the public, and its business is subject to no regulations except those which, from time to time, the Committee for General Purposes think right to impose on those whom they choose to admit. Its prestige and authority depend entirely upon the reputation it has established for honest and efficient business methods.

The undertaking of the London Stock Exchange is a voluntary association of persons styled "proprietors" holding shares in a capital or stock of £720,000, represented by the freehold, leasehold, and other property of the undertaking, divided into 20,000 shares on which £36 per share is credited as paid up. The society was originally constituted under a deed of 1802, but in 1875 became and now is governed by a deed of settlement dated 21st December, 1875 (see *Weinberger v. Inglis*, [1919] A C 606).

The administration of the Stock Exchange is vested in two bodies, although their functions are totally distinct. They are (1) the Managers; (2) the Committee for General Purposes.

The Managers are the representatives of the shareholders or proprietors of the Stock Exchange. They are the governing body, or Directors, and consist of nine members. Under the provisions of the two deeds the former body regulates admission moneys, has the appointment of all the officials, except the Secretary and the official assignee (who, it will subsequently be seen, are otherwise appointed), and generally manages and controls the building. The Managers are elected by the shareholders, three Managers retiring once in every five years.

Since 1904 every member elected must before exercising his privileges of membership become a proprietor by acquiring either one or three shares according as to whether he is admitted with two or three sureties.

The Committee for General Purposes consists of thirty members.

They hold office for twelve months from the 25th of March next following the date of their election. Any member of the Committee is re-eligible for election. The election of the Committee is fixed for the 20th of March in each year, but if that day happens to be a Sunday or Bank Holiday the election takes place on the following business day. The election takes place by ballot of the members. Notice of the ballot is publicly exhibited in the Stock Exchange during the fourteen days previous to the election. The names of the persons on the existing Committee willing to serve and all new candidates, with their proposers and seconders, must be publicly exhibited in the Stock Exchange during three business days previous to the ballot being held. No ballot is however taken where the number of candidates does not exceed the number of vacancies, and in such cases the candidates are deemed to be duly elected. The members of the retiring Committees remain in office until the 25th of the same month of March in which their successors are elected, and in case no election shall be made at any ballot, the retiring members remain in office for another year or until a valid election has taken place under clause 92 of the Deed of Settlement.

The following are the formalities required in the case of election: Four business days' notice previous to any ballot of intention to propose any person not already on the Committee and eligible for re-election must be given to the Secretary of the Committee in writing signed by two members. The ballot takes place by printed lists containing the names of the persons willing to serve again and of all persons so proposed, distinguishing the former from the latter. In case no election is made on the day appointed for that purpose, the Committee may forthwith, or any time thereafter prior to the next ordinary yearly ballot, cause a ballot to be held for such election on a day to be fixed by the Committee for that purpose and in all respects as before provided. The Committee appointed by such ballot remains in office until the 25th of March then next following, or until a valid election takes place. Every ballot for the election of the Committee for General Purposes or for supplying vacancies on the Committee must be held at the Stock Exchange, and conducted in accordance with the existing practice and usage in reference to such elections. In case of dispute as to what such practice or usage has been in any particular, the

Committee shall from time to time determine the same by resolution (Deed of Settlement, s. xii, cl. 90) For the exact wording of the rule (Rule 1) reference should be made to the Appendix

The qualification of members of the Committee and of voters is as follows Members of the Committee must have been for the space of five years immediately preceding the day of election members of the Stock Exchange Every person on ceasing to be a member *ipso facto* vacates his seat on the Committee. Every member is entitled to vote even though he has not paid his subscription. Occasional vacancies on the Committee for General Purposes are filled by a ballot of members held for the purpose on a day to be fixed by the Committee for General Purposes, of which seven days' previous notice has been given by the same being publicly exhibited in the Stock Exchange. Similar notice of nomination must be given as provided by clause 90 of the Deed of Settlement

The surviving or continuing members on the Committee, notwithstanding any vacancy in their number, may act until the vacancy is filled. Any person elected to supply an occasional vacancy in the Committee holds office for the residue of the year in which he is elected, and he then retires with the other members of the Committee

The procedure of the Committee is regulated thus They may meet at such times as they shall themselves appoint, and shall determine their own quorum (not to be less than seven members actually present) and mode of procedure.

The Committee regulate the transaction of business on the Stock Exchange, and may make rules and regulations, not inconsistent with the provisions of the Deed of Settlement, respecting the mode of conducting the ballot for the election of the Committee and respecting the admission, expulsion, or suspension of members and their clerks and the mode and conditions in and subject to which the business of the Stock Exchange shall be transacted and the conduct of the persons transacting the same, and generally for the good order and government of the members of the Stock Exchange. Moreover, the Committee are entitled from time to time to amend, alter, or repeal such rules and regulations or any of them, and may make any new amended or additional rules and regulations for any of the above mentioned purposes It will be seen from this statement of the powers of the Committee that they are absolute, so far as any

of the matters just stated are concerned Presumably any rule made by them would be good, provided that it was not contrary to or inconsistent with the Deed of Settlement.

At the first ordinary meeting after the annual election the Committee are required to elect from amongst themselves a chairman and a deputy-chairman. They hold office for a year, that is, till the ensuing 25th of March. In case of a vacancy the appointment is to be filled up as soon afterwards as possible. In the absence of the chairman and deputy-chairman the meeting chooses its own chairman. In all cases when on a division the votes are equal the chairman has a second or casting vote.

The Secretary of the Stock Exchange, who must be a member of the Stock Exchange, is chosen at the first meeting of the Committee. He holds office during the pleasure of the Committee.

Three or more members are also required to be chosen at this meeting to act as scrutineers at elections. It is their business to report the result of the ballot to the Committee, and to the Stock Exchange.

The Committee hold their ordinary meetings every Monday at 1.15 o'clock, commencing on the first Monday after each annual election. But a special meeting may at any time be called by the Chairman or the Deputy-Chairman, or in their absence, or in case of their refusal, by any three members of the Committee. One hour's notice at least must be posted in the Stock Exchange.

One of the duties of the Committee is to see to the election of candidates and the re-election of members. Every such admission, election, and re-election is for the space of one year only, and this election takes place on and after the first Monday in March every year. This power is purely a discretionary power which is exercisable and is exercised by the Committee in a perfectly uncontrollable manner for the benefit of the Stock Exchange as a body (including both proprietors and members) and the decision of the Committee in any case or number of cases is not liable to be disputed or challenged by any individual affected thereby. The Committee is under no obligation to give to any applicant for re-election or admission any notice of the grounds or reasons upon or for which the Committee are proposing to act in his case, and they are directed not to disclose or state to any person whose application they have rejected, or to any Court or Tribunal, the grounds or reason of or



for such rejection. The Committee's decision is also declared not to be liable to be brought into question before or controlled by any Court or Tribunal. So long as they exercise their discretion in accordance with the Deed of Settlement and Rules, and do not act arbitrarily or capriciously, a Court of Law has no jurisdiction to interfere with their decision. The procedure which is to be observed and the decisions of the Courts thereon are dealt with in Chapter III under the heading of Stockbrokers and Stock-jobbers.

Resolutions of the Committee are not valid nor can they be put into practice until confirmed, except those relating to the shutting of the House, the admission of members or clerks, the re-election of members, the re-admission of defaulters, the authorization to carry on arbitrage business, the registration of remisiers, the fixing of settling days, or the granting or refusing of permission for dealings in new issues and official quotations. In cases which do not admit of delay two-thirds of the Committee present must concur in favour of the immediate confirmation of the resolution, and the urgency of the case must be stated in the minutes. If a resolution is not confirmed and another resolution is substituted, the substituted resolution requires confirmation at a subsequent meeting. In all cases brought under the consideration of the Committee their decision when confirmed is final, and must be carried out forthwith by every member concerned. Notice must be given in writing of any proposed alteration of, or addition to, the rules, and a copy of such proposal is directed to be sent to each member of the Committee. All communications to the Committee are required to be made in writing, and no anonymous letter will be acted upon.

Members and their clerks must attend the Committee when required, and give such information as may be in their possession relative to any matter under investigation. The Committee have power to expel from the Committee any of their own members who may be guilty of improper conduct. The resolution for expulsion must be carried by a majority of two-thirds in a Committee specially summoned for that purpose, and consisting of not less than twelve members, and must be confirmed by a majority of the Committee at a subsequent meeting specially summoned.

The Committee have power to expel or suspend any member of the Stock Exchange (1) who may violate any of the rules or

regulations; (2) who may fail to comply with any of the Committee's decisions; or (3) who may be guilty of dishonourable or disgraceful conduct

In addition to these powers, the Committee have also power to censure or suspend any member who in his conduct or business may act in a manner detrimental to the interests of the Stock Exchange, or who may conduct himself in an improper or disorderly manner, or who may wilfully obstruct the business of the House.

A resolution for expulsion or suspension must be carried by a majority of three-fourths of a Committee present at a meeting specially summoned and consisting of not less than twelve members, and must be confirmed by a majority of the Committee present at a subsequent meeting specially summoned

The Committee for General Purposes for the time being may in their absolute discretion and in such manner as they may think fit, notify, or cause to be notified, to the public that any member has been expelled, or has become a defaulter, or has been suspended, or has ceased to be a member, and the name of such member. No action or other proceeding is under any circumstances maintainable by the person referred to in such notification against any person publishing or circulating the same. This rule operates as leave to any person to publish and circulate such notification, and is pleadable accordingly

The Committee may dispense with the strict enforcement of any of the rules and regulations, but such power can only be exercised by a committee specially convened for that purpose, and consisting of not less than twelve members, three-fourths of whom must concur in the resolution for such dispensation. The resolution must be confirmed by a majority of the Committee at a subsequent meeting specially summoned

The policy of the Committee has always been opposed to allowing its members to resort to the Law Courts, and although, of course, they cannot interfere with non-members bringing actions against members in respect of Stock Exchange transactions, they can and do interfere with their own members going to law, and they have by their powers of expulsion a means of preventing members seeking redress elsewhere than at their Domestic Forum. Indeed they offer to non-members, who choose to submit themselves to arbitration,

the advantages of speedy justice (see Appendix No 31) Whilst, no doubt, this is of considerable advantage to the individual litigants, yet in the long run it may be doubted whether it prevents disputes. Since decisions of the Committee are not publicly recorded, as the decisions of the Law Courts are in the volumes of the Law Reports, there is nothing to prevent the same points being raised over and over again by disputants from lack of knowledge, nor would, it may be assumed, one Committee be inflexibly bound by the decision given by another Committee in a previous year. Nevertheless in practice the decisions of previous Committees establish precedents which the Committee try to follow in exactly similar cases.

With reference to the powers of the Committee it will be seen that they possess a general jurisdiction over the management of the House and members.

The policy of keeping members of the Stock Exchange from having resort to the Law Courts is supposed to be supported by those rules which allow the Committee to suspend or expel members and forbid their resort to law except with the Committee's sanction. The following point has never been raised, but it might be raised in the event of a member, without the Committee's sanction, going to law with a fellow member as to how far the Committee, if they acted under the rule, would be guilty of contempt of court. The Courts are exceedingly jealous of attempts to interfere with their jurisdiction, and act promptly where there is any interference with witnesses, and it may be assumed that they would act promptly where the provocative cause that gave rise to the committee's jurisdiction was the seeking by the complainant of redress in the Law Courts. On the other hand, it may be observed that the rule of the Stock Exchange which makes the committee final arbitrators on all claims has been held by the Courts to be reasonable (See *Harker v Edwards* (1887), 57 L J Q B 147, followed in *Smith v. Reynolds* (1892), 66 L.T. 808.)

Apart from the jurisdiction exercised by the Committee as a controlling body, they act in disputes between members and non-members in certain cases. The jurisdiction is referred to elsewhere. The great Stock Exchange doctrine is the inviolability of bargains, a doctrine which Committees from the earliest days have insisted on. Indeed it is difficult to see how business involving enormous sums of

money could be transacted every day if this were open to any question. Therefore, except in the rarest instances, the Committee will not interfere even to put off or annul a special settlement that is once fixed, though apparently the circumstances fully justify it, because such a proceeding would necessarily cancel a number of existing bargains. The policy of the Committee may be right or wrong from the public point of view, but it is a policy that is not likely to be altered.

## CHAPTER III

### STOCKBROKERS AND STOCK-JOBBERS

BEFORE entering into a description of the business that is carried on in a stockbroker's office it is necessary to explain what is now understood by a stockbroker. As distinguished from a stock-jobber, he is the person who buys or sells stocks and shares for and on behalf of members of the public for a commission or brokerage. The stock-jobber or dealer, on the other hand, has no relations with the public except in one or two exceptional instances. Herein lies the cardinal distinction between the two. The former owes a duty to the client who instructs him and at the same time a duty to the body of which he is a member. During the Kaffir boom it became the habit of certain jobbers to approach the company promoters and outside dealers direct, but this has since been forbidden by the rules of the Committee. The jobber owes a duty to the body of which he is a member, but since he has no clients amongst the public he owes no duty to them. As will be seen afterwards, in business relations the broker and the jobber are at arms' lengths, and in the respective positions of buyer and seller. It follows that partnerships between brokers or firms and jobbers cannot exist. In fact they are forbidden. Brokers are not allowed to carry on any other form of business, except in a few instances where firms are still in existence that acted as brokers and bankers in the old days before the rule was made and who are still allowed to act in the double capacity. At present the rules governing admission lay stress upon the following points in a candidate for admission: his experience, and the necessity of his being a natural born British subject. A person, who is not a natural born British subject is not eligible as a candidate for admission, or, in the case of a former member, for re-election as a member of the Stock Exchange and shall not be admitted or re-elected as a member, but the Committee may nevertheless in any particular case and after consideration of the circumstances affecting such case, if in their uncontrolled and uncontrollable discretion they deem it expedient or proper so to do, admit or re-elect as a member an applicant, who, not being a natural born British subject, has altogether abandoned his foreign nationality and has been resident

in the British dominions for ten years and has been naturalized within such dominions for five years or upwards next preceding the date of his application

- The Committee are the elective body—they re-elect on the first Monday in March, or after, such members as they deem eligible to be members of the Stock Exchange for the year commencing on the 25th of March then instant. Every such re-election is for the term of one year only, commencing on the 25th of March then instant or last preceding the re-election or admission of any such person. So long as they *bona fide* exercise the discretion conferred on them by the Deed of Settlement and the rules, and do not act arbitrarily or capriciously the Court has no jurisdiction to interfere with their decision as to re-election or election (*Weinberger v Inglis*, [1919] A C 606). The Committee are not bound to give reasons for their decision not to re-elect (*Cassel v Inglis*, [1916] 2 Ch 211).

The re-elected member immediately becomes liable for the amount of his subscription and the fees fixed by the Trustees and Managers. In order to obtain re-election he must in each year address to the Secretary an application in the Form No 1 in the Appendix. A reference should be made to the Appendix to the rules for the forms which are required to be used on re-election, admission, and re-admission. Each member of a partnership is required to sign a separate letter. The form contains important features. Thus, it names the clerks, but where a new clerk or the authorization of clerks as yet unauthorized is required a separate form must be filled up.

The subscription has to be paid to the credit of the managers within twenty-one days from the 25th of March. Where a partnership exists, only one member of the partnership need make the claim as to clerks.

Every member or applicant for re-election, admission, or re-admission must state whether he proposes to act as a broker, jobber, or clerk, or that he is not engaged in active business. No member can alter his status from broker to jobber or *vice versa* without first giving fourteen days' notice to the Committee, such notice to be posted in the Stock Exchange. Where a member has not resigned and is not a defaulter, bankrupt, or insolvent, and has not exercised his right of nomination, but has discontinued his subscription for one year, he must be recommended for re-election by two recommenders

without security, but if he has discontinued his subscription for two years he must apply for admission as a new candidate. A member who is not desirous of being re-elected in any year must notify to the secretary his intention not to apply for re-election. Notwithstanding this notice he may apply at any time during the current Stock Exchange year on Form No. 1 in the Appendix, provided he has not exercised his right of nomination or become ineligible under Rule 26.

A candidate for membership, except clerks in certain circumstances (see Rule 29), is required to obtain, before applying for admission, the nomination of a member willing to retire in his favour, or of a former member, or of the legal personal representative of a deceased member. The nomination must be on one of the forms in Appendix 15. Such form will be issued only at the written request of the nominator (Rule 27 (1)).

A candidate nominated by an existing member must not be balloted for until the resignation of the nominating member has been accepted by the Committee.

Nominations by other than existing members must be executed and lodged with the Secretary within twelve months of the death or resignation of the member, or in the event of his discontinuing his subscription, within the current Stock Exchange year. If not so exercised, the right of nomination passes to the Committee who may sell it to any member at any time they may consider fit. The proceeds of such sale must be paid to the Trustees and Managers. A right sold under the foregoing conditions is exercisable by the purchaser within twelve months of the sale, but if not effectively exercised within that period it reverts to the Committee, who may again offer it for sale.

A nominee must be eligible under these rules, and, if he is a clerk applying for admission with two sureties, he must have completed the service required by the second clause of Rule 33 before the expiry of the right of nomination.

If a nominee is rejected, a further nomination may be lodged within the prescribed period.

In the case of a deceased member, the probate of the will or letters of administration must be exhibited to the Secretary before the issue of the nomination form.

Should the Committee at any time consider that the number of

members admitted is insufficient for the transaction of business in the house, or that it is expedient generally for the good order and government of the members so to do, they may create such a number of special rights of nomination as they may deem necessary in the circumstances. The resolution creating such special rights of nomination must be carried by a majority of three-fourths of a Committee present at a meeting specially summoned and consisting of not less than twelve members, and must be confirmed by a majority of a Committee present at a subsequent meeting specially summoned. These special rights of nomination are to be offered for sale to the members of the Stock Exchange, the price to be not less than the average price which in the opinion of the Committee was paid for nominations sold during the twelve months immediately preceding the date of the special resolution creating them, but in any event at not less than £2,000. The proceeds of the sales are to be paid to the Trustees and Managers. A special right of nomination so purchased must be exercised and lodged with the Secretary within twelve months of the date of the special resolution creating it, otherwise it will lapse. It does not imply guarantee of election, the election of a candidate so nominated to be under the same rules and subject to the same conditions as if he had acquired the nomination of a retiring member, a former member, or the legal representative of a deceased member.

A candidate for admission must be not less than twenty-one years and must be recommended by three members. Each recommender must engage to pay five hundred pounds to the creditors of the candidate in case the latter shall be declared a defaulter within four years from the date of his admission.

A member recommending a candidate must be of not less than four years' standing, must have fulfilled all his engagements, and must state in writing that he is not and will not be indemnified. He is required to have such personal knowledge of the candidate, and of his past and present circumstances, as shall satisfy the Committee of his eligibility. (Rule 34)

If the candidate has served as a clerk in the House or the Settling Room for four years, with a minimum service in the House of three years, previous to the lodging of his complete application form, two recommenders only are required, who must each enter into a similar engagement, but for three hundred pounds only.



A clerk of foreign birth or a clerk who previously to his employment in the Stock Exchange has been engaged as principal in any business is only eligible for admission as a member with three sureties for five hundred pounds each (Appendix Form 4) Rules 29 to 53 in the Appendix govern admission and re-election of members to the Stock Exchange

A notice of each application with the names of recommenders, must be posted in the Stock Exchange at least eight days before the candidate can be balloted for.

The right of nomination is a personal one and cannot be transferred. It cannot be exercised by a person who is expelled, one who has applied for re-election and been rejected, or one who ceases to be a member for one of the following reasons—

(1) A person who is engaged as principal or employee in any business outside the Stock Exchange is a member of, or subscriber to, or shareholder or debenture holder in, any other institution dealing in stocks and shares, or whose wife is engaged in business.

(2) A member who is bankrupt, proved to be insolvent, or against whom a Receiving Order in Bankruptcy may have been made or who may fail to pay the fees due to the Trustees and Managers, although he may not at the same time be a defaulter in the Stock Exchange.

(3) A member who shall not have acquired his necessary share qualification.

In all the above cases and all cases where the right of nomination has not been exercised within the time limit fixed by the rules, the right of nomination shall pass to the Committee, who may sell it at any time and to any member, the proceeds to be paid to the Trustees and Managers.

The right of nomination may not be exercised by a defaulter, but in the case of any defaulter who had a right of nomination previous to his failure the Official Assignees shall have a right of nomination for twelve months after the date of default. The proceeds of the sale of such nomination, if exercised by the Official Assignees, is to be applied in discharge of the defaulter's debts in the Stock Exchange. A defaulter is not required to obtain a nomination before re-admission.

A member who is re-elected with two recommenders (see Rule 25) or a former member who, although not a defaulter, has been insolvent, and who has been re-admitted with two sureties (see Rule 52)

may not exercise the right of nomination until four years after his re-election or re-admission. A member admitted without nomination on or before the 22nd December, 1930, or a member admitted without nomination from Section A of the waiting list, may not exercise the right of nomination until the liability of his sureties has expired by the effluxion of time. Where a defaulter has been re-admitted since the 22nd December, 1930, and in whose case the right of nomination has been exercised by the Official Assignees, he has no right of nomination unless he has purchased a nomination since the date of his re-admission and registered his name in respect thereof with the Secretary. Other re-admitted defaulters may not exercise the right of nomination until four years after the date of re-admission. In all the above cases, should the member die within the time limit, the right of nomination may be exercised by his legal personal representative, and in the event of his default within the said period the Official Assignees have the same right as in the case of a defaulter having a right of nomination before his default.

A member admitted from Section B of the waiting list after the 22nd December, 1930, has no right of nomination unless he shall have purchased a nomination and registered his name accordingly with the Secretary.

The Committee at a special meeting held in December of every year fix the number of admissions for the year, commencing the 25th of March following, open to candidates with two recommenders without nomination. These are clerks who have completed four years' service in the Stock Exchange or Settling Room.

The resolution fixing the number of candidates to be so admitted is not valid or put in force until confirmed.

A clerk having completed four years' service on the Stock Exchange or in the Settling Room in accordance with clause 2 of Rule 33 may apply on the form, No 16 in the Appendix, to be placed on the waiting list of candidates for election without nomination.

The names of clerks so applying must be placed upon the waiting list in the order of application, and the list must be posted in the Stock Exchange in December of each year.

Those within the number fixed by the Committee may be balloted for on or after the first Monday in March for the ensuing Stock

Exchange year, provided that their application forms, duly signed and complete in all respects, are lodged with the Secretary at least eight days before the ballot. The waiting list is divided into two sections, Section A consisting of clerks whose names were on the list on or before the 22nd December, 1930, and Section B, those who have applied to be placed on the list since that date. Persons whose names are on Section A are not allocated more than 20 per cent of the number of admissions fixed by the Committee under this rule.

A candidate, within the number fixed by the Committee, who fails to lodge a complete application form within one month from the date of his having the right to do so, is placed at the bottom of Section B of the waiting list, and the next in order of priority is entitled to lodge an application form. A candidate whose name has been placed at the bottom of the waiting list and who fails to apply for membership when he next has the right to do so is removed from the list altogether.

The name of a clerk who ceases to have admission to the House or the Settling Room for a period of six consecutive months, is removed from the waiting list. Should he wish to be reinstated he must make a special application to the Committee. (See Rule 29.)

A candidate is ineligible if he is engaged as principal or clerk in any business other than that of the Stock Exchange, or if his wife is engaged in business, or if he is a member of, or subscriber to, or is a shareholder or debenture holder in any other institution where dealings in stocks or shares are carried on; and if, subsequently to his admission, he becomes subject to any one of these objections he ceases to be a member, upon a resolution of the Committee to that effect.

A candidate is ineligible who has been a bankrupt, or against whom a Receiving Order in Bankruptcy has been made, or has been proved to be insolvent, or has compounded with his creditors, unless he has paid 20s. in the £, and obtained a full discharge.

A candidate is ineligible who has more than once been a bankrupt or insolvent, or compounded with his creditors.

Recommenders are required to have such personal knowledge of candidates and of their past and present circumstances as will satisfy the Committee as to their eligibility. Each recommender

must state in writing that the candidate fulfils all the requirements of the Rules, particularly those of Rules 21, 30, 31, 32, and 33, that he has read the attached statement by the candidate and confirms the accuracy of the same, the length of time he has known the candidate, and that from his personal knowledge he is satisfied as to the candidate's fitness, both financially and in all other respects, to become a member of the Stock Exchange, that the candidate is free to commence business on his own account forthwith if he so desires, and that he the recommender is not and will not be indemnified. A candidate may be recommended by a firm, but not by two members of the same firm, nor by a member who is an authorized or unauthorized clerk, nor by a member whose authorized clerk the candidate may be, nor by a member whose sureties are still liable. Moreover, a member is not allowed to be a surety for more than two new members at the same time unless he takes up an unexpired suretyship, when the limit shall be three. If a member enters into partnership with or becomes authorized clerk to any one of his sureties, or if any one of his sureties ceases to be a member during his liability, he must find a new surety for such portion of the time as remains unexpired, and until such substitute is provided the Committee will prohibit his entrance to the Stock Exchange.

A member intending to object to the re-election of a member, the admission of a candidate, or the re-admission of a defaulter, is required to communicate the grounds of his objection to the Committee by letter previously to the re-election or ballot. The Chairman of the Committee requires every candidate to acknowledge his signature to the form of application (See Rule 39.)

A candidate is required to state in writing whether any, and if so what, question arises in regard to his candidature under Rules 31 and 32, his personal history and occupation or employment since he came of age, whether, if elected, he proposes to act as a Broker or Dealer on his own account or in partnership, that in the event of his not going into business on his own account no arrangement or understanding exists or will be entered into directly or indirectly between him and his recommenders that he will not do so or that he shall act only as a clerk during the period of their liability.

The election of new members takes place by ballot, and must be carried by a majority of three-fourths in a Committee of not less than twelve members.

If any applicant for re-election, admission or re-admission be rejected, he may not be balloted for again before the 25th of March then next ensuing

A member on his election must, before exercising any of the privileges of membership, become a proprietor in the Stock Exchange, by acquiring one share in the case of a member admitted with two sureties, or three shares in the case of a member admitted with three sureties. A member requiring a share qualification who fails to obtain it within six months, or who at any time ceases to hold the qualification, ceases to be a member. As to the effect of a transfer of a share or shares see Rule 42 (4)

The Secretary may not issue an admission notice to a new member until it has been reported to him by the Secretary to the Trustees and Managers that the new member has been duly registered as a proprietor of the required number of shares. The Secretary may not issue a re-election notice to a member re-elected under Rules 24 or 25 who on his admission required a share qualification until it has been reported to him by the Secretary to the Trustees and Managers that the member is duly registered as a proprietor of the required number of shares. Should a member who requires a share qualification fail to obtain it within six months, his re-election shall be cancelled

A notice of every defaulter, applying for re-admission, must, at the discretion of the Committee, be posted (without recommenders) in the Stock Exchange, at least twenty-one days, and the Committee then take the application into consideration, upon the report of a sub-committee, appointed according to Rule 46. (See Rule 43.)

If the Committee think fit, a defaulter may be re-admitted without the above notice, in any case where upon the report of the sub-committee it is proved that all liabilities have been *bonâ fide* discharged in full. In such case his name must be posted as having paid 20s in the £

Defaulters who are declared within four years of their admission as members, and defaulters who have been rejected upon two ballots, can only be re-admitted by a majority of three-fourths on a Committee specially summoned and consisting of not less than twelve members.

A defaulter is not required to obtain a nomination before re-admission. (See Rule 28 (6) )

A defaulter who has been originally admitted a member after the 23rd November, 1904, and who has parted with his share qualification, must on re-admission, before again exercising any of the privileges of membership, become a proprietor of one share in the Stock Exchange. A defaulter who fails to obtain his share qualification within six months of re-admission or who at any time ceases to hold it ceases to be a member.

The Secretary may not issue his re-admission notice to such defaulter until it has been reported to him by the Secretary to the Trustees and Managers that the defaulter has been duly registered as a proprietor of one share. A re-admitted defaulter who transfers the share constituting his qualification forthwith ceases to exercise any of the privileges of membership, and ceases to be a member upon resolution of the Committee to that effect.

Upon any application for re-admission by a defaulter, a sub-committee investigates his conduct and accounts; and no further proceedings may be taken by the Committee with regard to his re-admission until the report of such sub-committee has been submitted, together with a statement as to the defaulter's estate, signed by himself.

The attention of the sub-committee must be directed,

1st. To ascertain the amount of the greatest balance of securities open at any time during the account, and at the time of failure, the total amount of his business assets; the current balance at his bankers; and whether the transactions were on his own account, or on account of principals, specifying the amount of each respectively.

2nd. To ascertain the total amount of money paid to his estate, specifying the sums collected in the Stock Exchange, those received from principals, and those from the defaulter himself.

3rd. To ascertain the conduct of the defaulter preceding and subsequent to his failure, and to inquire of the Official Assignees whether any matter prejudicial or otherwise to the defaulter's application has transpired at any meeting of creditors, or has officially come to their knowledge elsewhere.

4th. To ascertain whether the defaulter has violated Rule 50—that is, that he had issued or retained a ticket for securities

whereby losses are incurred and who is declared a defaulter on that account

A defaulter who is bankrupt or insolvent applying for re-admission must furnish the sub-committee with all the information they require.

The re-admission of defaulters is in two classes which are distinct.

The first class comprises cases arising from the default of principals or from other circumstances where no bad faith or breach of the Rules and Regulations of the Stock Exchange has been practised, where the operations have been in reasonable proportion to the defaulter's means or resources, and where his general conduct has been irreproachable.

The second class is for cases marked by indiscretion and by the absence of reasonable caution.

A defaulter is not eligible for re-admission who fails to give up the name of any principal indebted to him, or who has not within fourteen days from the date of his failure delivered to the Official Assignees, or to his creditors, his original books and accounts, and a statement of the sums owing to and by him, in the Stock Exchange, at the time of his failure

A defaulter is not eligible for re-admission, who has not paid from his own resources, independently of his security-money, at least one-third of the balance of any loss that occurred on his transactions, whether on his own account or that of principals; or who, in the event of his debts being less than the amount which his sureties may be called upon to pay, has not refunded to the sureties one-third of the amount paid by them.

A member who issues or retains a ticket for securities (i.e., who has bought stock for which he cannot pay, or sold stock which he cannot deliver, or has neglected properly to arrange his account), whereby loss is incurred or increased, and who is declared a defaulter in that account, is not eligible for re-admission for at least one year from the date of such default, provided it be proved to the satisfaction of the Committee that he knew himself to be insolvent at the time of issuing or retaining the ticket.

The surety of a new member, who at the time of such member's admission has avowed that he was not and would not be indemnified, and who subsequently receives any indemnity, may, in the

event of the new member failing within the time of his liability, be compelled to pay to the creditors any sum so received, in addition to the amount for which he originally became surety

A former member, not a defaulter, who has ceased to be a member under Rule 173, and who has paid 20s. in the £ may apply for re-admission with two sureties of £300 each. A notice of such application must, at the discretion of the Committee, be posted in the Stock Exchange at least twenty-one days, and the Committee must, after consideration of the report of the sub-committee appointed under Rule 46, proceed to ballot for his re-admission.

A member wishing to resign his membership must forward to the Secretary a letter tendering such resignation, and a copy of this letter is posted in the Stock Exchange for at least four weeks before the matter is entertained by the Committee.

Assuming that a candidate has been duly elected a member of the Stock Exchange, he can either carry on business as a broker or as a jobber, but he cannot act, as previously stated, in both capacities, nor can he enter into a partnership either open or secret with a broker if he is a jobber, nor with a jobber if he is a broker. If he makes up his mind to become a broker he will require to have a business office which for obvious reasons should be as conveniently near to the Stock Exchange as possible. He may also require to have a clerk or clerks as the case may be. If the new member has a large connection, and is not admitted into some partnership with some firm already established, he will require, if he intends to do justice to his business, at least one authorized clerk. He will also require to fit up and furnish offices of his own or have the use of offices. All this requires capital, and the larger the capital a broker has, the better for him it will be; for, however good his clients may be, he must be prepared to take a certain amount of risk. Sometimes he may have to pay differences for stock to the market against which he may have a country cheque which will require three days for collection in the ordinary course of business, or he may not be able to obtain payment for stock owing to some technical error, and not care to withhold payment from the client.

It may be convenient now to refer to the question of clerks, and deal with the Stock Exchange Rules on the subject. A clerk may be an authorized clerk, unauthorized, or a Settling Room



clerk Clerks are admitted to the House or the Settling Room with the permission of the Committee, but no clerk can be admitted unless he is seventeen years of age. A member must apply to the Committee for the admission of an authorized, unauthorized, or Settling Room clerk, and state whether he desires the admission of a clerk to the House or the Settling Room, or whether he desires the authorizing of a clerk to transact business, or the employing another member as his clerk whether employed in the House or not. Applications must be made on one of the forms—the forms 18, 19, or 20 in the Appendix. A member of the Stock Exchange can employ another member as his clerk. A member who has any arrangement for the sharing of his commission with another member must apply for his admission on Form 18 or 19 in the Appendix. A member who employs another member as his office clerk must apply for his admission as a clerk on Form 19 in the Appendix. The notes to these forms lay stress upon the necessity of the member satisfying the Committee that the clerk is of the proper age, i.e. for an authorized clerk 21, and for an unauthorized or Settling Room clerk 17, that he has obtained a satisfactory reference from the clerk's last employer, that he has a satisfactory knowledge of the clerk's previous career, and that he would in all other respects be eligible for admission as a member. A member may apply for the admission of a defaulter as his clerk, either authorized or unauthorized or to the Settling Room, although the defaulter may not have complied with Rule 49. He may also apply for the admission, as his clerk, of a former member not a defaulter who has ceased to be a member under Rule 173, although such person may not have complied with Rule 31. In either case a notice of such application must at the discretion of the Committee be posted in the Stock Exchange for at least twenty-one days, and the Committee then take the application into consideration in the case of defaulters upon the report of the sub-committee appointed under Rule 46. A resolution allowing such application must be carried by a majority of three-fourths of the Committee present. This procedure does not apply to a defaulter, bankrupt, or insolvent who has been previously readmitted as a clerk. When the application is for the admission as a clerk of a person who has previously been engaged in business out of the Stock Exchange, the name and address of such person, together with the name of the member applying for his admission,

must be posted in the Stock Exchange eight days prior to the application being considered by the Committee. If the clerk has been in partnership out of the Stock Exchange, he must submit to the Committee a copy of the *London Gazette* in which the dissolution of his partnership is notified (Appendix (19) )

The number of clerks permissible, but not necessarily allowed, to be introduced to the House, is—

For an individual member, three (one authorized) , also two Settling Room clerks. For a firm, five (two authorized) , also six Settling Room clerks

Members may be employed as unauthorized clerks in excess of the numbers above allowed, and members may be employed as authorized clerks in excess of the numbers above allowed, with a limit of three for an individual member or five for a firm with two partners with (subject to a maximum of eight) an additional one for each partner in excess of two. A member employed as clerk, whether authorized or unauthorized, must not make a bargain in his own name. If he were acting as a clerk to a defaulter at the time of default, or to a person who has ceased to be a member by expulsion or under Rule 173 or to a member under suspension, he must not make any bargain in his own name, nor may he be admitted as an authorized clerk to another member until he has obtained the permission of the Committee. A temporary clerk may be obtained in place of a clerk absent on territorial training, and a member desiring one should apply on one of the Forms 21 and 22 in the Appendix

A member who rents a seat in the Decoding Room must apply for permission to register a clerk on Form 23 (see Appendix). On this point the regulations as to registration of Decoding Room clerks connected with this Form should be referred to.

A clerk is not authorized to transact business until he has been admitted to the House or the Settling Room for two years, with a minimum service in the House of one year.

A list of authorized clerks, distinguishing those who are also members, and the names of their employers, must be posted in the Stock Exchange.

The authorized clerk of a dealer must not carry on business in any market other than that in which his employer deals.

A member authorizing a clerk to transact business is not held

answerable for money borrowed by the clerk, without security, unless he has given special authority for that purpose.

A clerk must not enter the House or the Settling Room, nor must an authorized clerk do a bargain, until his employer has received from the Secretary notice of his admission or authorization (Rule 69)

A member who may part with a clerk, or be desirous of withdrawing from an authorized clerk the permission to transact business on his account, must give notice in writing to the Secretary, who must forthwith communicate the same to the Stock Exchange in the usual manner

Clerks of defaulters are excluded from the Stock Exchange.

Clerks of a deceased member may by permission of the chairman, deputy chairman, or two members of the Committee enter the Stock Exchange to adjust unsettled accounts.

An unauthorized clerk will not be allowed to enter the House or the Settling or Checking Rooms without a blue badge worn in the lapel of the coat, and a Settling Room clerk will not be allowed to enter the Settling Room without a red badge worn in the same manner. The only badges authorized are those issued from the Secretary's office, and members are required to notify their loss to the Secretary. If a badge is lost a fine of 10s is to be paid to the Trustees and Managers. A member withdrawing a clerk is to return the badge to the Secretary's office at the date when the withdrawal takes effect. When a member authorizes a clerk, or promotes a Settling Room clerk to the House, he is to return the clerk's badge as soon as the change is passed by the Committee

No member is allowed to take into, or continue in, his employment, in any capacity whatsoever in any business carried on by him as a member, any former member who has been expelled

From the nature of the present rules it will be seen that the policy of the Stock Exchange is to close its doors against outsiders seeking admission. To obtain membership a considerable amount of influence is now required. The number of clerks seeking admittance without nomination must always be few. At the present time the Stock Exchange is overcrowded, and there is probably no desire on the part of the Committee to increase membership. The Committee emphasize by their rule that a clerk who has served for four years as a House clerk is in their opinion a much more

suitable candidate for election than one who has not had such preliminary schooling, since he may be assumed to have a knowledge of the pitfalls that would meet the ordinary beginner. It is permissible to notice how even at the present time the same names constantly recur from generation to generation, Dutch names, for instance, often indicating a descent from the financiers who first sprang into prominence about the close of the sixteenth century.

In the same way the annals of the Law show a descent from generation to generation of men bearing names celebrated for learning and advocacy—one effect of the present rules affecting admission to the Stock Exchange will probably result in demonstrating a similar state of things to a more marked degree than hitherto.

In accordance with this policy it should be noted that under its general rules the Stock Exchange will not recognize in its dealings any other parties than its own members. Every bargain, therefore, whether for account of the member effecting it or for account of a principal, must be fulfilled according to the Rules, Regulations and Usages of the Stock Exchange. As the inviolability of a bargain is to be strictly observed, an application which has for its object an annulment of the bargain will not be entertained by the Committee except upon a specific allegation of fraud or wilful misrepresentation, or upon *prima facie* evidence of such material mistake in the bargain as in their judgment renders the case one which is fit for adjudication. It may be noted in this connection that Courts of Law will set aside contracts when they are satisfied that the parties to the alleged contract were never *ad idem*, where, for example, a contract has been made by two parties and one party has been induced to enter into it by a representation as to existing facts by the other party, which was untrue, but which was not known to be untrue at the time by the party who made it, or where the contract was brought about by wilful misrepresentation amounting in law to fraud, or where there was a mutual mistake as to the subject-matter of the transaction. In any case where a charge of fraud is raised it must be specifically raised in the pleadings, and the party against whom it is alleged is entitled to the fullest particulars, so that he may be in a position to meet the charge.

Apparently no provision is made in the rules by which legal advice can be obtained by the Committee as to the legal principles which they should apply in determining the question when the facts are found by them.

All disputes between members not affecting the general interests of the Stock Exchange which arise out of Stock Exchange transactions, or are connected with Stock Exchange business and including partnership disputes, must be referred to the arbitration of a member or members of the Stock Exchange, and the Committee will not take into consideration such disputes unless arbitrators cannot be found or are unable to come to a decision. The decision of the Committee as to whether a dispute affects the *general interests*, and if so, how it shall be dealt with, is final. It would seem only reasonable that if it does affect the general interests all the members of the House shall have it brought to their notice. It should be noted that a member is not allowed without the consent of the Committee to attempt to enforce by law a claim arising from such a dispute, and the Committee have power to intervene in cases where the principal of a member shall attempt to enforce by law a claim against another member which is not in accordance with the Rules, Regulations, and Usages of the Stock Exchange, and to deal with such cases as the circumstances require. If a non-member prefers a claim or complaint against a member the Committee must consider whether such claim or complaint is fitting for their adjudication, and in the event of their deciding in the affirmative, the non-member must, previously to the case being heard by the Committee, sign the Form of Reference No. 31 in the Appendix. A member of the Stock Exchange is not allowed to advertise for business purposes or issue circulars or business communications to persons other than his own principals. All members must, until further order of the Committee, state on all correspondence relating to the transaction of business on the Stock Exchange and on Contract Notes—

- (1) The name of their firm, if any,
- (2) The names of all the partners therein
- (3) Where the name of the member or any partner of foreign birth has been changed since 4th August, 1914, his original name in brackets after his new name.

The Committee may refuse to allow a member or firm to carry on business under a name which they consider misleading

A broker issuing a contract note must use such a form as will provide that the words "Member of the Stock Exchange, London," shall immediately follow the signature

The rule against transacting speculative business either directly or indirectly for or with an official or clerk in any public or private establishment without the written consent of his employer is of great importance and must be strictly observed

A number of rules have been made which deal especially with domestic transactions. Thus a member is not allowed to transact a private bargain with an individual member of another firm on the Stock Exchange, such bargain being wilfully concealed from the firm. A member or authorized clerk may not enter into a bargain with a clerk, whether a member or not, for account of such clerk, nor may he deal for a clerk to another member without first obtaining the consent of such member. Nor may a member transact business for a principal who, to his knowledge, is a defaulter to another member unless such principal shall have made a satisfactory arrangement with his creditor. Nor may a member or authorized clerk carry on business in the double capacity of broker and dealer

A broker is not allowed to make prices or otherwise carry on the business of a dealer. He must not carry on shunting business nor arbitrage business except as authorized under Rule 92, which provides that subject to annual authorization by the Committee a member, whether broker or dealer, may carry on arbitrage business outside Great Britain and Northern Ireland and the Irish Free State with a non-member, but a broker so authorized is not allowed to make prices or otherwise carry on the business of a dealer, and a dealer so authorized is not allowed to act as agent by executing orders for such non-member (Appendix, Form No 32)

A broker is not entitled to receive brokerage from more than one principal on a transaction carried through directly between two principals, and each contract note must state that the bargain has been done between non-members

Subject to the provisions of Rule 204 (4), which should be referred to, brokerage is charged to the non-member who initiated the business.

When a broker receives an order from one principal to buy and from another to sell the same security and executes the two orders simultaneously with the same dealer, the prices agreed upon must be such as at the time of dealing are believed to be fair to both principals

A broker may not put business through for another broker (Rule 89), nor may he execute an order with a non-member unless thereby he can deal for his principal to greater advantage than with a member. In such a case he must not receive brokerage from such non-member and each contract note must state that the bargain has been done between non-members. Business, which in fact comes under the conditions of this rule, must not be put through a dealer's book nor may any other procedure be adopted in order to bring such business under the provisions of Rule 89 already dealt with. All bargains done with or between non-members, whether within official hours or not, must be marked without delay and the time of dealing entered on the marking slip. Such markings must be recorded unless withheld by authority of the Chairman or Deputy-Chairman, or two members of the Committee. A dealer is not allowed to deal for or with a non-member, neither may he carry on shunting business or arbitrage business except as authorized under Rule 92.

Long options are prohibited, that is to say, a member may not do a long option for a period beyond the seventh ensuing account-day, but it should be carefully noted that under Rule 183 (1) that a claim will not be allowed to rank against a defaulter's estate arising from a bargain or option for a period beyond the third ensuing account-day until all other claims have been paid in full, but assets arising from such transactions must be collected and distributed among the creditors.

No member or clerk is allowed to take out a bookmaker's certificate or to use the Stock Exchange, his office, or the office of any member as betting premises.

The Stock Exchange, unless otherwise ordered by the Committee, is closed on the 1st of January, the 1st of May, and the 1st of November, and on all Bank Holidays. In the event of the 1st of January, 1st of May, or 1st of November, falling on a Sunday, the House will be closed on the day following.

The law of partnership is the law of the land, but subject to

and in addition to this the Stock Exchange has certain rules of its own which, of course, bind members. In every year, as soon as possible after the 25th of March, the Secretary makes out a list of partnerships. In case of a new or an alteration in an old partnership, the fact must be communicated to the Committee, and no partnership is considered as altered or dissolved until such communication is made. All notices relative to partnership must, unless otherwise ordered by a Committee specially summoned for that purpose, be signed by the parties, countersigned by the Secretary and posted in the Stock Exchange. A member who enters into any contract with another member for a loan of money or securities on terms contingent on or varying with the profits of the business is liable as a general partner. Members who enter into such contracts must notify the same as General Partnerships. A member may not borrow money or securities from a non-member on terms that the lender shall receive a rate of interest varying with the profits or shall receive a share of the profits arising from carrying on the borrower's business. The failure of a firm dissolves the partnership, and should the members of such firm when re-admitted desire to renew the partnership, notice of the fact must be given to the Committee in the usual way.

Partnerships between brokers and jobbers are prohibited. No member is allowed to enter into partnership with any person who is not a member, and the decision of the Committee as to what constitutes a partnership within the meaning and intention of the rules is final.

Members dealing generally together in any particular stock or shares, and participating in the result, are held responsible for the liabilities of each other, not only in the shares or stock in which they are jointly interested, but also in any other description of securities in which either of them may transact business, unless they forward a written notice to the Secretary specifying the particular securities in which they deal on joint account. (Form 17)

This rule is applicable also to members allowing others to deal with their shares, stock, or capital, and participating in the result.

*Market Partnerships are only permitted between members, or firms, who each deal and settle their bargains in their own name.*



No market partnership may consist of more than two members or firms, nor may such partnership be carried on in any other markets than those in which both parties are dealing.

All market partnerships must be notified to the Secretary and posted in the Stock Exchange.

## CHAPTER IV

### THE BUSINESS OF THE STOCK EXCHANGE

THE following classes of business are dealt with on the Stock Exchange—the loans of British and foreign Governments, bonds, debentures, and stock of private bodies such as Municipalities and County Councils, and the debentures, stocks, and shares of public companies, and options. It is proposed to deal with these seriatim. Reference should be made to the glossary of terms for an explanation of their meaning.

*British Government Loans and Annuities.*—These are either funded or unfunded loans. Funded loans are those which the Government are under no necessity of paying off, such as  $2\frac{1}{2}$  per cent Consols, which consists of stock representing various loans now consolidated,  $2\frac{3}{4}$  per cent Annuities,  $2\frac{1}{2}$  per cent Annuities,  $3\frac{1}{2}$  per cent Conversion Loan, 4 per cent Consols.

The unfunded debt comprises such securities as Exchequer Bonds, Treasury Bills, War Stocks, Funding 4 per cent, Conversion  $4\frac{1}{2}$  per cent, Conversion 5 per cent, and Victory Bonds. British Government Loans and Annuities are transferable at the Bank of England.

The Bank of England, however, administers many other funds and issues stock certificates to bearer, to the holders of the stock, with dividend coupons attached. These are bearer securities transferable by delivery.

*Foreign Government Loans* are transferable according to the particular form of security; they often take the form of bonds, which have always been considered negotiable by simple delivery. Thus, a bond issued by the King of Prussia, after evidence had been called that similar bonds circulated freely by delivery both here and in Prussia, was held negotiable—the form of the bond being that the King of Prussia and his successors bound themselves to pay the holder for the time being (*Gorgier v. Mieveille* (1824), 3 B & C. 45). Russian, Dutch, and Danish Government securities, having been proved to be freely marketable by delivery in their own countries, were also held negotiable in this country (*Attorney General v. Bouwens* (1838), 4 M & W 171). In the *London Joint Stock Bank v. Simmons*, [1892] A.C. 201, it was decided that

Argentine Cedula bonds were negotiable Lord Macnaghten said .  
 " The Cédulas in question are foreign bonds with coupons attached, payable to bearer. Admittedly they pass from hand to hand on the Stock Exchange, and according to the evidence of the bank manager, who was not cross-examined on the point, they are dealt with as negotiable instruments I do not see on what ground they are to be denied the quality of complete negotiability "

In the *Bechuanaland Exploration Company v. London Trading Bank*, [1898] 2 Q B 658, the question was whether debentures which according to their tenor were payable to bearer, or when registered to the registered holder for the time being, but which were not promissory notes by reason of the conditions indorsed thereon, were negotiable instruments transferable by delivery. On its being shown that the debentures by the usage of the mercantile world were treated as negotiable, they were held to be negotiable here The case of *Crouch v Crédit Foncier of England* (1873), L.R , 8 Q B 374, has in effect been overruled by *Goodwin v Roberts* (1875), L.R., 10 Ex 337, (1876), 1 App Cas 476, but, whether the instrument is an English instrument or foreign instrument, the usage necessary to support its claim to rank as negotiable must be a usage in England In *Picker v. London & County Banking Co* (1887), 18 Q B D 515, Lord Esher, M R , said that in order to establish such an exception to the common law rule (i.e. as to the non-negotiability) some custom of merchants obtaining in this country must be proved, or some English statute must be relied on. In *Edelstein v. Schuler & Co.*, [1902] 2 K.B. 144, Bigham, J., said: " In my opinion the time has passed when the negotiability of bearer bonds, whether Government bonds or trading bonds, foreign or English, can be called in question in our courts. The existence of the usage has been so often proved and its convenience is so obvious that it must be taken now to be part of the law; the very expression 'bearer bond' connotes the idea of negotiability, so that the moment such bonds are issued to the public they rank themselves among the class of negotiable securities It would be a great misfortune if it were otherwise, for it is well known that such bonds are treated in all foreign markets as deliverable from hand to hand; the attribute not only enhances their value by making them easy of transfer, but it qualifies them to serve as a kind of international currency; and it would be very odd and a great injury

to our trade if these advantages were not accorded to them in this country. . . I think that it is no longer necessary to tender evidence in support of the fact that such bonds are negotiable, and that the courts of law ought to take judicial notice of it."

*Foreign Scrip*—The negotiability of foreign scrip was considered in *Goodwin v. Roberts* (1876), 1 *App Cas.* 476. There the Russian Government had issued a loan, and the scrip was in the following form—

Scrip for £100 stock No —. Received the sum of £20, being the first instalment of twenty per cent upon one hundred pounds stock, and on payment of the remaining instalments at the period specified the bearer will be entitled to receive a definitive bond or bonds for one hundred pounds after receipt thereof from the Imperial Government.

London, 1st of December, 1873.

Since the scrip was by the custom of all the Stock Markets of Europe treated as a negotiable instrument, it was held that English law would follow this custom and any person taking it in good faith obtains a title to it independent of the title of the person from whom he takes it, and, when the instalments mentioned in the scrip have been actually paid, the scrip is as much a symbol of money due and as capable of passing current as the bond itself. It was argued that the scrip was at most a promise to give a bond and not a promise to pay money, and therefore was not a security for the payment of money, but Cairns, L C, said: "It is impossible to maintain this distinction; the whole sum of £100 has been actually advanced and paid, and the loan was carrying interest from the 1st of the previous December. There was nothing more remaining to be done on the part of the holder of the scrip and if any such holder had been asked what security he had for the advance he would have unhesitatingly pointed to the scrip."

*American Railway Securities* have also been the subject of judicial consideration. Bonds which left blanks for the name of the holder and contained an obligation on the company to pay the legal holder with an indorsement to the effect that they might be registered in the owner's name in the books of the company, after which no transfer was valid unless made in the company's books by the registered owner, although they might be discharged from the registry by transfer to bearer when they became transferable by

delivery, were held negotiable (*Easton v London and Joint Stock Bank* (1886), 34 *Ch D* 95, on appeal *sub nomine Sheffield v London Joint Stock Bank* (1888), 13 *App Cas* 333) Bonds also payable to bearer which might be registered in the company's books, but after which no transfer was valid unless made in the company's books, have also been decided to be negotiable till so inscribed (*ibid*) Lord Watson, in the course of his judgment in the same case, at p 342, said "The bonds have been held by the Court of Appeal upon the authority of *Goodwin v. Roberts* (1876), 1 *App Cas* 476, to be negotiable instruments, and I see no reason to differ from that conclusion." Lord Halsbury, L C, said "I have said nothing upon the different character of the securities since I think it quite immaterial whether they were negotiable or not, and if the facts are as I have suggested, the banks, as holders of a negotiable security, would be in no better position by reason of the negotiability of a security as to which they had knowledge or notice that it belonged to someone else" Shares to bearer, such as American railway shares, have always been considered as negotiable on the Stock Exchange, since they pass from hand to hand Share certificates are issued in the names of the registered holders On the back they are endorsed with blank forms of transfer with a blank power of attorney to execute a surrender and cancellation of the certificate These are signed by the registered holder, and when they reach a shareholder he is entitled to fill in his name and send the certificates to the office of the company for the purpose of being registered as the holder, the old certificates are then cancelled and the new holder is registered and receives a new certificate (*Colonial Bank v Cady* (1890), 15 *App Cas* 267, 285) In this case a question arose between the Colonial Bank and executors on the following facts Executors of a registered holder had signed the endorsed forms of transfer as transferors, and delivered them to a broker, who misappropriated them by delivering them to the Colonial Bank to secure advances made to himself It was decided on the evidence, both by the law and customs of New York and London, that since the signing of the transfer was equally consistent with the intention of the executors to get themselves registered in the books of the company by means of their agent, the broker, as with instructions to sell or pledge the shares, that therefore the bank had been put upon inquiry, and had not acquired a good title against the executors A transfer by

executors both by the law and customs of both countries was not a good delivery (See also *Fuller v Glyn, Mills, Currie & Co*, [1914] 2 K B 168)

It has been said that American railway shares are negotiable on the Stock Exchange, but in reality they only confer an inchoate title, since they cannot be sued upon by the holder (*Colonial Bank v. Hepworth* (1887), 36 Ch D 36, *London and County Banking Co. v London and River Plate Bank* (1888), 21 Q B.D. 535).

If the holder of American shares neglects to register he must risk considerable trouble and sometimes failure to collect the dividends.

**Stock.**—Consols are stock So are the shares of most railway companies If the capital of a company or the amount of a loan is in one sum which is divisible—that is, you can buy or sell any portion of it—it is called stock. The chief distinctions between stocks and shares are—

(a) Shares need not necessarily be fully paid, but the amount of stock must be paid within a given time, the dates of instalments due being announced when the stock is issued.

(b) Shares can only be transferred in their entirety; stock may be divided and transferred either in stated multiples or in any required amounts

(c) Each share is distinguished by a particular number, a requirement which does not apply to stock.

A company limited by shares may modify the conditions of its memorandum of association and convert its paid-up shares into stock

Sections 95 and 108 of the Companies Act, 1929, provide that where a company has converted any of its shares into stock, and given notice of the conversion to the registrar of companies, the register of members of the company and the list of the members to be forwarded to the registrar as part of the annual return must show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares required by the Act

**Option Shares.**—It is a growing habit with companies to issue option shares which are transferable by deed of transfer with certificate. These represent options to take shares at a fixed price at certain date or dates.

Options under the Stock Exchange rules would not be recognized for a period beyond the seventh ensuing account (see Rule 183

already referred to), but if a transaction in options has been carried out by a broker he can legally enforce his obligations against his client (*Marten v Gibbon* (1875), 33 *L T* 561)

Apart from general rules there are certain special rules dealing with the different classes of business dealt with on the Stock Exchange. Thus, there are (1) rules applicable to English, India, Corporation and Colonial Inscribed Stocks, etc.; (2) Rules applicable to securities deliverable by deed of transfer; (3) Rules applicable to securities to bearer. These will be found subsequently treated in succeeding pages.

The shares of public companies, or shares deliverable by deed of transfer, are shares in which the holder's name is required to be entered in the books of the company. These shares may be the subject of a free market, in other words, they may be current securities, in which there will be found to be no difficulty either in buying or selling. A price is always obtainable, and many will be found quoted in the list of official quotations. On the other hand, shares may not be the subject of a free market. Then they are not current securities, and a broker may often find a difficulty in buying or selling them and he may not always be able to effect this directly, and some time may elapse before business can be transacted. The last class of business to be referred to is options. An option is a form of contract by which a person, on paying what is known as option money to another, thereby acquires the right to deal with him at some future fixed date in a specified quantity of stocks or shares at a price which the parties determine at the time.

These options are of three classes. The first is the put, by which the giver of option money has the right to put on, or sell to, the receiver a definite amount of stock or a definite number of shares at a fixed price. The second is the call, which means that the giver has the right to call or purchase, from the taker, and the third is the put and call, or the double option, which is a combination of the two.

Option dealing is a special kind of business, and affords a means of speculation with a limited liability, for if the market moves adversely, nothing is lost but the price that has been paid for the option. The option is usually at the market price of the day with an addition to cover the amount of contango accruing during the time the option is open.

The Stock Exchange rules with reference to options provide that all optional bargains must be declared at a quarter before three o'clock on the day before the contango-day for the securities in question, or on Saturday a quarter before twelve. If the day for the declaration of options falls upon a day on which the Stock Exchange is closed, they must be declared on the preceding business day. In the case of options done for and declared on the contango-day, the bargains, both for the firm stock and the option, are to be for settlement on the settling-day of the following account. Among members of the House, if the course of an option is apparent, it declares itself automatically by custom. When shares or stock on which options are open are quoted ex-rights, an official price, will, on application to the secretary of the share and loan department, be fixed for the rights.

All rights in respect of options must be settled by the allowance of such valuation on the option price. Forward bargains and options for settlement on the account days are prohibited in all securities under the headings "British Funds" and "Dominion, Provincial, and Colonial Government Securities".

The question of the validity of put and call options was discussed by the Court of Appeal in *Buitenlandsche Bankvereeniging v Hildersheim* (1903), 19 T.L.R. 641 C.A., and the conclusion was come to that it was not a gambling transaction. (See also *Sadd v. Foster* (1897), 13 T.L.R., 207 C.A.) If, however, there was a tacit understanding that the bargains should not be enforced and that the differences only should be paid, the contract would be void.

Having described the nature of the securities that are dealt in upon the Stock Exchange, it is now proposed to indicate the usual course of business on the Stock Exchange, and show how a transaction is carried out. The broker in the first instance receives an order which may arrive by letter, telegram, or telephone, or the client may call at the broker's office and there give verbal instructions. The order may be ambiguous in its terms, if it so appears, the broker should take steps where possible to clear up the ambiguity before he attempts to execute it, but if it should happen to be ambiguous and a reasonable man could read it in the way the broker does, the responsibility for the mistake will fall on the principal for any money loss incurred in consequence (*Loring v Davis* (1886),



32 *Ch.D.* 625, following *Ireland v Livingstone* (1872), *L.R.*, 5 *H.L.* 395).

If the order is clear, the broker will take steps to execute it at once. It may now be shown how he does this. Stockbrokers during market hours deal in the House, therefore it is to the House that they betake themselves, or, if they do not go themselves, they dispatch an authorized clerk. Let it be assumed that broker X has an order to buy 100 Chartered shares at £1 10s per share. The broker is well acquainted with his client, and has no doubt as to his position and solvency, and is anxious to execute the order. Taking his notebook with him or, as it is generally called, his jobbing-book, he enters the House. He makes his way towards the market in which Chartered shares are dealt. To the stranger the idea of a market might suggest some railed-off portion or enclosure, but not so to the broker. He knows that the House is not divided by artificial boundaries into many markets. The term "market" merely conveys to him the idea that in some particular portion of the House he will come across jobbers who deal in particular securities. Thus, the term "Consol Market" will suggest the western and old portion of the House, and thither a broker would naturally turn to execute an order in Consols. Here also he would go if he desired to deal in Colonial or India Loans, or in the loans of Municipal Corporations. Again, in another portion of the House will be found the Yankee market, where American railway shares and bonds are dealt in. In another portion the English railway dealers congregate, and so on.

Then there are markets within markets. Thus, within the Railway market will be found separate markets for the securities of different railway groups.

Some markets will consist of many jobbers, where the shares are active, other markets will consist of only a few who deal in their specialities. The object of the broker, in fact his proper business, is to discover the jobber who will make him the closest price, and not to go to a jobber who in his turn will seek another jobber to quote a price. A broker's skill will largely consist in this selection of a jobber, and here long experience will stand him in good stead. Now to follow our particular broker X. He reaches the jobber Y who deals in Chartered shares; the market is a very free one, and X has no difficulty in executing the order with Y.

fractionally under the price named by his client. The market on this occasion was favourable to his way of dealing, needless to say it is not always so. Before, however, he makes an entry of the transaction in his jobbing-book, let us see what are the customs that regulate dealing or the etiquette of the House. When a broker approaches a jobber and asks him to quote a price, the jobber names two prices—the lower at which he will buy and the higher at which he will sell. Often, however, there is a great deal of finesse exercised where large amounts are concerned. If in the result the price is satisfactory, and the broker can deal, he does so at once, declaring whether he is a buyer or a seller, broker and jobber entering the transaction in their jobbing-books, and the transaction is finally concluded.

Where large orders require placing, Stock Exchange etiquette allows the jobber to ask the broker questions, his object being to ascertain whether the broker is a buyer or a seller. This information the broker is naturally not anxious to give till the dealing price is quoted. The carrying out of these transactions requires the greatest skill and tact. One of the rules (102) applicable to bargains and the settlement of accounts makes the matter clear, for it declares that an offer to buy or sell an amount of stock, bonds, or shares at a price named is binding as to any part thereof that may be a marketable quantity, and an offer to buy or sell stock, bonds, or shares when no amount is named is binding to the amount of—

“£1,000 stock or bonds or the equivalent in foreign currency ; 100 shares of a market value of less than £1, 50 shares of a market value of £1 to £15, 10 shares of a market value of over £15 ; 100 American dollar shares.”

The justice of this rule will be apparent, because otherwise if the broker declared himself, the jobber, who thought he was a buyer when he was a seller, might decline to deal except in a very small portion of the stock. Hence necessity gave occasion for the rule, and an experience extending over many years has justified it.

Another Stock Exchange custom in dealing with large amounts of stock is one which binds the jobber who inquires, after the deal is concluded, if the broker has any more to do, to take the rest of the order in which he has already dealt at the same price.

Apropos of the custom a story is told in the House of a youthful and inexperienced jobber who was bidding for stock £5,000 stock was soon forthcoming, whereupon the bidder boldly said, "Have you any more to do, Mr. — ?" The answer was unexpected, for the seller of the £5,000 immediately replied, "Young man, I sell you seventy-eight thousand," and the venturesome youth was obliged to take the lot

As soon as the broker has executed his order, which is given and accepted orally, both jobber and broker make a note of the transaction. A jobbing-book is a notebook in its simplest form, of a convenient pocket size, divided by lines into spaces wherein are entered the details of the bargain, the client's name, in the case of brokers, the amount and name of security dealt in, and the jobber's name.

From the jobbing-book the entries are duly entered into the journal, or day-book, a more substantial book, which contains columns for the calculation and charges, such as brokerage, stamp duty and registration fees. All bargains done are checked the following morning, and there is no doubt that the process of checking is a most desirable one. The clerks of the broker and jobber meet in the settling rooms in the basement of the House between 10.15 and 11, and there the bargain is checked as a rule without dispute, the intervention of the Committee being rarely called for. The Committee are not asked to interfere unless some question of principle involving general interests is in question. Where the clerks cannot agree, the matter is referred to the partners. In practice, however, it is unusual to find many cases of disagreement. When the bargain is checked it can be at once entered by the broker's and jobber's clerks in their respective ledgers from the journal from which entries the contracts have been written the previous night before the bargains have been checked. In the case of jobbers, of course, no contracts or brokerage charges are involved.

X's clerks, when the bargain is checked, will enter it in the Jobber's Ledger, that is, the ledger in which a record of the transactions of X with jobbers is kept. An entry will also be made in the Principal's Ledger, from which the clients' accounts are written.

Now let us leave X for a moment to follow Y, the jobber from whom the Chartered shares are bought. Y, like X, has made an

entry in his jobbing-book, which will be checked. Y's clerks then make an entry of the transaction in the Journal, from the Journal into the Ledger, and there the matter will stand till the settlement takes place. Meanwhile Y's position as jobber is this—that he has sold 100 Chartered shares to X for the account. Now it has been explained that a jobber always quotes two prices, a buying and a selling price, and the difference between the two is known as the market turn.

During the course of the account the jobber will enter into many transactions in these shares, both buying and selling, the art of good stock jobbing being for the jobber to keep his book even as far as possible. Then again, the people with whom he deals may also in their turn have various transactions both ways in the same shares during the account, so that the original order which Y has executed will possibly pass through many hands before it reaches the broker who is actually selling 100 Chartered shares.

The transaction between X and Y may be recorded, or, to use the Stock Exchange expression, "marked." If recorded, the record is made on a board. Now, the method of marking is effected by either the broker or the jobber filling in one of the printed slips which are kept at the foot of the marking board. The particulars required are the name of the stock and the price at which it changed hands. This slip on being handed to the clerk in charge of the marking boards is the material on which the clerk marks the price which is subsequently quoted in the official list.

The board is the official record of the business that has been transacted during the day in quoted stocks and shares. Marking is one of the safeguards of the client, for he can insist that his broker shall have the bargain marked. If the marking is irregular, it is perfectly open for other members to object on the ground that the price is outside the current quotations, and should be struck out. With the authority of the chairman, deputy-chairman, or two members of the Committee, this can be done. Complaints as to marks of business may be lodged with the Clerks of the House at any time. Objections to the quotations in the list must be lodged with the Clerks of the House not later than fifteen minutes before closing time. Reference should be made to the Appendix, Stock Exchange Rules, 165, 166, 168, and 169. It has been said that the official list consists of the prices of bargains transacted on the Stock Exchange between members at the market price. This is the only list that the

Stock Exchange allows to be published. The rule states that a list of prices of English and foreign stocks, shares, and other securities permitted to be quoted shall be published under the authority of the Committee, and no list or record shall be published and sold by a member without the sanction of the Committee. Another list is also published under the authority of the Committee known as the Supplementary List. Particulars of the lists will be found in a later chapter.

Bargains should be marked in the order in which they are made, but sometimes a bargain is not marked immediately. It can, however, be marked later on, for the Clerks of the House may, with the concurrence of a member of the Committee, on an application signed by the buyer and the seller stating the amount, the time when, and the price at which such bargains were made, mark it. The application is filed and laid before the Committee at their next meeting.

Bargains may be marked between 10 30 a m and 3 30 p m (12 o'clock on Saturdays), and bargains marked will be officially recorded, unless specially ordered otherwise by the chairman, deputy chairman, or his members of the Committee. Bargains at special prices are marked with the sign ‡. Bargains done with or between non-members Δ. Bargains done during unofficial hours or on the previous day φ.

There are three courses open to a client who has instructed his broker to purchase shares. 1st, he may desire to carry over or continue the bargain; he will then instruct X, his broker, accordingly, 2nd, he may desire to take up the shares and pay for them, 3rd, he may desire to undo the bargain by selling the shares during the account.

(1) *Carrying Over or Continuing the Account.*—This is done by the aid of the jobber. X will approach Y, a jobber, and ask him if he is willing to carry over the shares. If Y is agreeable, X, on contango day, will enter into a new contract with him for the sale of the shares bought for the existing account, and also into a concurrent contract to re-purchase from him the shares at the same price for the ensuing account. The shares may have risen or fallen in value since the original bargain was made. If the shares have risen, then X will receive what is known as the difference, that is to say, the difference between the price at which the shares were

bought and the making-up price. If the shares have fallen then X will have to pay on behalf of his client the difference representing the fall to Y. As a consideration for carrying out the transaction Y will receive a *contango*, which is interest on money which the jobber has to find to pay for the stock. The *contango* rates vary according to the state of the account in the different stocks and shares. Under ordinary conditions they are based on the value of money in conjunction with the security, but should there be an excess of bulls over bears the charge would naturally be higher, as there would be more borrowers of *money* in that particular stock than lenders. Should there be a bear account, that is, more borrowers of *stock* than lenders of *stock*, the rate would be light and might altogether disappear. This latter stringency in *stock* sometimes results in what is called a *backwardation*, that is, the bull will be able to borrow the money against the stock which he has bought in order to close the bargain for the account without having to pay any interest on it, but actually receiving a consideration for the loan of his stock or shares.

There is no need for broker X to enter into the *contango* arrangement with the jobber Y with whom he has dealt; he can close the bargain for the current account and reopen for the new with *contango* as described above with any jobber who may be willing to do the business.

In all cases the carrying over is done at the making-up price, which is fixed by the Clerk of the House, of all securities included in the Stock Exchange official list of making-up prices. A fuller explanation of these terms will be found when dealing with the business of the account.

The Clerk of the House fixes the making-up prices of all securities included in the Stock Exchange list of making-up prices by taking the actual market price at eleven o'clock on the *contango* day. Where securities have been made *ex-dividend* on the *contango* day the making-up price is fixed by taking the *cum-dividend* cash price. No making-up is binding unless at the official making-up price, or, where none is fixed, at the then existing market price. In case of dispute as to the making-up price or of any omission in fixing the same, the Clerk of the House acts upon the decision of two members of the Committee. The making-up prices so fixed are published in the Stock Exchange Official List of making-up

prices under the authority of the Committee and subject to the rule in Appendix 33. These Regulations provide as to the inclusion of securities in the Stock Exchange Official List. This list is subject to revision at intervals of not more than three months. Securities which are not undertaken by the Settlement Department are only included in the Official List of making-up prices for ordinary accounts subsequent to the first settlement upon the signed requisition of five members or firms, two of whom at least must be brokers. Securities undertaken by the Settlement Department are included in the Official List of making-up prices without requisition.

(2) Supposing that the client desires to take up the shares. It is necessary to find the actual seller of the shares which have been purchased, and this is discovered by means of the ticket system, which is further simplified by the existence of a Clearing House which deals with certain stocks and shares which are freely dealt in. As previously pointed out, the bargain may have passed through many hands before the actual broker or deliverer of the shares is found. The detailed working out of this is subsequently explained, and it is only necessary to state that the transaction is completed by the delivery of the stocks or shares, where deliverable, either at the time of or shortly after the settlement.

(3) The client may desire to sell them. A reverse transaction to that already described in the buying takes place, and according to whether the transactions show a profit or a loss a difference will be payable to or by him. If the client carries over the stock or shares purchased by him, the making-up price may be lower than the price at which he purchased the stock or shares. A difference then becomes payable by him. On the other hand, the stock or shares may have risen in value, then the difference will be payable to him.

The whole of the system which is here described will be found fully set out with the respective rights of client, broker, and jobber subsequently in the book, but some slight sketch in the nature of an introduction is here given so that the further chapters may be more easily and conveniently followed.

Although not necessarily Stock Exchange business, brokers are so constantly called upon to advise and to apply on behalf of clients for letters of allotment in companies, that a statement of the law would appear to be useful. An application for shares is generally

and usually made in writing, but it is not necessarily indispensable a verbal application is sufficient (*In re Olympic Fire & General Reinsurance Co*, [1920] 1 Ch 582, [1920] 2 Ch 341) In *Levita's Case* (1867), L R, 3 Ch 36, Levita was requested by McHenry to take shares in McHenry's name in the International Contract Co, Limited. Levita, having previously been consulted as to the legal position of the company, did so in writing as trustee for McHenry. No letter of allotment was sent to Levita, but his name was advertised as a director, and he attended a board meeting and received a fee as director His name was put on the register as a holder of 1,000 shares He applied to have his name struck out of the list. Sir John Rolfe, L J, said "In this as in the other cases there must be evidence of a contract, there must be evidence of the application being acceded to, but there is no absolute necessity for evidence that the entire contract is in writing as the parties may agree or the application may be acceded to without any letter or writing." The acceptance of the application constitutes a contract. With reference to this it may be noted, that where acceptance by post is authorized, the contract is completed by the posting of a letter of acceptance (*Dunlop v Higgins* (1848), 1 H L.C 381)

In *Household Fire Insurance Co. v Grant* (1879), 4 Ex.D. 216 it was decided that where a party expressly or impliedly authorizes the employment of the post as a means of communicating an acceptance, as where a proposal which is made by letter is accepted by letter, the contract is complete at the moment the letter is posted, although the person who should have received it never did in fact receive it, but delivery to a postman, however, is not posting, since a postman is not the agent of the Post Office (*In re London and Northern Bank, Ex parte Jones*, [1900] 1 Ch. 220) The rule, however, as to the revocation of an offer is not the same as in the case of acceptance Until the party to whom it has been addressed actually receives it, even though it may have been posted to him, a revocation is not operative Thus, if a letter of revocation of an offer to take shares is received by a company after it has posted a letter of allotment the revocation is inoperative A withdrawal of an offer to take shares may be made by word of mouth (*Truman's Case*, [1894] 2 Ch 272)

An agent can apply for shares on behalf of a principal and if the shares are allotted to the principal he becomes a shareholder



(*Hannan's Empress Gold Co , In re Carmichael*, [1896] 2 Ch 643, *Hindley's Case*, [1896] 2 Ch 121)

The acceptance of an allotment of shares is ordinarily evidenced by what is termed the allotment. Allotment is an unconditional appropriation to an applicant by a resolution of the directors of a certain number of shares in response to an application. In giving advice to a client a broker should act honestly, and if he does so no liability will attach to him even in the case of his giving wrong advice to his client or principal, provided that he has exercised the usual amount of skill that a broker would exercise in the ordinary course of business, but if he conceals anything which if revealed at the time would or might have resulted in the client not following his advice, he will probably be held liable to a client who has acted upon and suffered loss through following his advice. For instance, if a broker is the holder of shares in a company, the shares of which he recommends his client to purchase, this fact should be disclosed.

## CHAPTER V

### THE LAW RELATING TO COMPANIES

THE object of this chapter is to give a brief account of the chief statutory provisions relating to joint stock companies in order that the transactions on the Stock Exchange described in later chapters will be more easily understood. The statutory enactments relating to joint stock companies were consolidated by the Companies Act, 1929 (19 & 20 Geo 5, c. 23). Sections 1 to 5 of that Act explain the meaning of a Memorandum of Association and set out the mode of forming an Incorporated Company as follows—

**Memorandum of Association.**—Any seven or more persons associated for any *lawful purpose* may form a company and may, by subscribing their names to a Memorandum of Association and otherwise complying with the requirements of the Act in respect of registration, form an Incorporated Company, with, or without, limited liability. No definition is given in the Act of the words “lawful purpose.”

**COMPANY LIMITED BY SHARES** —A Company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them is in this Act, termed a *Company limited by shares*.

**COMPANY LIMITED BY GUARANTEE** —A Company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the Company, in the event of its being wound up, is termed in the Act a *Company limited by guarantee*.

**UNLIMITED COMPANY** —A Company not having any limit on the liability of its members is termed in this Act an *Unlimited Company*.

**PRIVATE COMPANY.**—Where the Company to be formed is a private Company, two or more persons may form the Company.

A *Private Company* is further defined by Section 26, for the purposes of the Act as a company which by its articles—

- (a) “Restricts the right to transfer its shares, and
- (b) “Limits the number of its members to fifty, not including persons who are in the employment of the company, and persons who, having been formerly in the employment of the company, were

while in that employment, and have continued after the determination of that employment to be, members of the company, and

(c) "Prohibits any invitation to the public to subscribe for any shares or debentures of the company "

If a private company alters its Articles so that they no longer include the above provisions, it ceases to be a private company, and must deliver a prospectus or statement in lieu of prospectus to the registrar of companies within 14 days

Where two or more persons hold one or more shares in a Company jointly they are for the purposes of Section 26 to be treated as a single member.

The Memorandum that is required in the case of these Companies must comply with the requirements which are set out in Section 2

The Memorandum must bear the same stamp as if it were a deed and must be signed by each subscriber in the presence of at least one witness, who must attest the signature, and that attestation shall be sufficient in Scotland as well as in England (Sect 3).

"A Company may not alter the conditions contained in its Memorandum except in the cases, in the mode and to the extent for which express provision is made in this Act " (Sect 4 )

As to name of Company and change of name, see Sections 18 and 19

Section 5 of the Act prescribes a means by which a Company may by *Special resolution* alter the provision of its memorandum with respect to the objects of the Company so far as may be required to enable it

" (a) To carry on its business more economically or more efficiently, or (b) to attain its main purpose by new or improved means, or (c) to enlarge or change the local area of its operations, or (d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the Company; or (e) to restrict or abandon any of the objects specified in the Memorandum, or (f) to sell or dispose of the whole or any part of the undertaking of the company, or (g) to amalgamate with any other company or body of persons " The alteration is not to take effect until and except in so far as it is confirmed on petition by the Court, and before confirming the alteration the Court must be satisfied (a) that sufficient notice has been given to every holder of debentures of the Company and to any persons or class of persons

whose interests will, in the opinion of the Court, be affected by the alteration, and (b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined or has been secured to the satisfaction of the Court." But the Court may, in the case of any person or a class for special reasons, dispense with the notice

As to special resolutions for reduction of share capital, see Sections 46-56 of the Act, these resolutions are called *resolutions for reducing share capital* and explain the procedure to be followed, and the meaning of the words "and reduced" when added to the name of a Company.

The Court may make an order confirming the alteration of the Memorandum under Section 5 either wholly or in part and on such terms and such conditions as it thinks fit. In exercising this discretion the Court must have regard to the rights and interests of the members of the Company, or of any class of them as well as to the rights and interests of the creditors and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members, and may give such directions and make such orders as it thinks expedient for facilitating or carrying into effect any such arrangement. Provided that no part of the capital of the Company be expended in any such purchase (See Sect 5 (5), and as to procedure see Sect 5 (6), (7))

**Articles of Association.**—In the case of a Company limited by shares there may, and in the case of a Company limited by guarantee or unlimited there must, be registered with the memorandum, articles of association signed by the subscribers to the memorandum and prescribing regulations for the Company (Sect 6)

Articles of Association may adopt all or any of the regulations contained in Table A (which is to be found in the First Schedule to the Act). In the case of a Company limited by shares, if Articles are not registered, or, if Articles are registered, in so far as the Articles do not exclude or modify the regulations contained in Table A, those regulations, so far as applicable, are the regulations of the Company in the same way and to the same extent as if they were contained in duly registered Articles (Sect. 8.)

Articles must be printed, divided into paragraphs numbered consecutively and bear the same stamp as if they were contained in a deed. Further, the Articles must be signed by each subscriber of the Memorandum of Association in the presence of at least one witness, who must attest the signature.

**ALTERATION OF ARTICLES**—Section 10 provides for the alteration of Articles by special resolutions. It declares that subject to the provisions of the Act and to the conditions contained in its memorandum, a Company may by *special resolution* alter or add to its Articles, and any alteration or addition so made is as valid as if originally contained in the Articles and be subject in like manner to alteration by special resolution. This power of altering Articles extends in the case of an unlimited Company formed and registered under the Joint Stock Companies Acts to altering regulations relating to the amount of capital or to its distribution into shares, even though those regulations are contained in the memorandum (Sect. 319.)

**Registration of Memorandum and Articles.**—Under Section 20 of the Companies Act the Memorandum and Articles, when registered, bind the Company and the members thereof to the same extent as if they respectively had been signed and sealed by each member, and contained covenants on the part of each member to observe all the provisions of the Memorandum and of the Articles. All money payable by any member to the Company under the Memorandum or Articles is treated as a debt due from him to the Company, and in England is of the nature of a specialty debt.

The Memorandum and the Articles (if any) must be delivered to the Registrar of Companies for England or the Registrar of Companies for Scotland according as the registered office of the Company is stated by the Memorandum to be situate in England or Scotland, and he must retain and register them.

On the registration of the Memorandum of a Company the Registrar certifies that it is incorporated, and if it is limited that it is limited. From the date of incorporation which is mentioned in the certificate of incorporation, the subscribers of the Memorandum, together with such other persons as may from time to time become members of the Company, become a body corporate by the name contained in the Memorandum, and forthwith become capable of exercising all the functions of an incorporated Company, having perpetual succession and a Common Seal, but with such liability

on the part of the members to contribute to the assets of the Company in the event of its being wound up, as is mentioned in the Act Subject to certain restrictions in the case of charitable and similar corporations, a company incorporated under the Act has power to hold lands without licence in mortmain. The Certificate of Incorporation given in respect of any association is conclusive evidence that all the requirements of the Act have been complied with, and that the Association is a Company authorized to be registered and duly registered under the Act

It may be observed that there is no power to annul a Certificate of Incorporation except by winding up the company In *Saloman's Case*, [1897] A C 22, the point was raised but not dealt with, see also *Princess of Reuss v Bos* (1871), L.R., 5 H L 176, where a company consisted of foreigners who had no intention of carrying on business in England In this case, as the Articles contained provisions contrary to the Companies Acts, they were held to be illegal But apparently there is no power to annul a Certificate of Incorporation by writ of *scire facias* or otherwise, for once a Company has registered it cannot be got rid of, the Registrar's duties being purely ministerial

**Copy of Memorandum and Articles.**—Every member of a Company is entitled to a copy of the Memorandum and of the Articles (if any) from the company on payment of a shilling or such less sum as the Company may prescribe

**Shares and Share Capital.**—Shares may be of different classes, and to each class there may be special rights attached The most usual kinds of shares are *ordinary shares*, *preference shares*, *deferred shares*, and *founders' shares* In addition certain companies issue guaranteed shares. Ordinary shares have no special privileges attached to them, they rank after preference shares for dividend. Preference shares may be of many kinds, e.g. *simple preference shares*, conferring a preferential right to a fixed dividend out of the profits of each year or *cumulative preference shares*, which entitle the shareholder to a fixed rate of dividend, and in the event of any deficiency in the earnings of any one year it is to be made up out of the undistributed profits of subsequent years. Deferred shares are shares which carry with them no right to dividend until the claims of all prior shareholders have been satisfied. Founders' shares are deferred shares, and the share of profits allotted to them is usually

very great. They are, as a rule, issued for a small nominal amount to the founders of the Company

The shares or other interest of any member in a Company are personal estate, transferable in manner provided by the Articles of the Company, and are not of the nature of real estate. Each share in a Company having a share capital is distinguished by its appropriate number

By Section 71 of the Companies Act, 1929, if any person falsely and deceitfully personates any owner of any share or interest in any Company, or of any share warrant or coupon, issued in pursuance of the Act, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner, as if the offenders were the true and lawful owner, he is guilty of felony, and on conviction thereof is liable, at the discretion of the Court, to be kept in penal servitude for life or for any term not less than three years

**Redeemable Preference Shares.**—As provided by Section 46 of the Companies Act a Company limited by shares may, if authorized by its Articles, issue preference shares which are, or at the option of the Company are to be liable, to be redeemed.

No such shares, however, may be redeemed except out of profits of the Company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of redemption, nor shall any such shares be redeemed unless they are fully paid. Further, where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there must out of profits which would otherwise have been available for dividend be transferred to a reserve fund (called "the capital redemption reserve fund") a sum equal to the amount applied in redeeming the shares, and the provisions of the Act relating to the reduction of the share capital of a Company are to apply as if the capital redemption reserve fund were paid-up share capital of the Company.

Where any such shares are redeemed out of the proceeds of a fresh issue, the premium, if any, payable on redemption, must have been provided for out of the profits of the Company before the shares are redeemed.

In every balance sheet of a Company which has issued redeemable preference shares there must be included a statement specifying what part of the issued capital of the company consists of such

shares and the date on or before which those shares are, or are to be liable, to be redeemed.

The redemption of preference shares, under Section 46, may be effected on such terms and in such manner as are provided by the Articles of the Company

**Different Amounts Paid on Shares.**—By Section 48 of the Act a Company, if so authorized by its Articles, may do any one or more of the following things—

(1) Make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares,

(2) Accept from any member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up,

(3) Pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

**Alteration of Share Capital.**—A Company limited by shares or a Company limited by guarantee and having a share capital, if so authorized by its Articles, may alter the conditions of its memorandum as follows, that is to say, it may—

(1) Increase its share capital by new shares of such amount as it thinks expedient,

(2) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares,

(3) Convert all or any of its paid-up shares into stock, and re-convert that stock into paid-up shares of any denomination;

(4) Subdivide its shares, or any of them into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived.

(5) Cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

These powers must be exercised by the Company in general meeting. It should be observed that a cancellation of shares in



pursuance of the above does not amount to a reduction of share capital (See below)

**REDUCTION OF SHARE CAPITAL**—Subject to confirmation by the Court, a Company limited by shares or a Company limited by guarantee and having a share capital may, if so authorized by its Articles, by special resolution (referred to as “a resolution for reducing share capital”), reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may—

(a) Extinguish or reduce the liability on any of its shares in respect of share capital not paid up, or

(b) Either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets, or

(c) Either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the Company, and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

Where a Company has passed a resolution for reducing share capital, it may apply by petition to the Court for an order confirming the reduction.

Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, the following provisions have effect (except that the Court, if it thinks proper, may direct that they shall not apply to any class or classes of creditors)—

(1) Every creditor of the Company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding up of the Company, would be admissible in proof against the company, is entitled to object to the reduction,

(2) The Court must settle a list of creditors entitled to object, and for that purpose must ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction,

(3) Where a creditor entered on the list whose debt or claim is not

discharged or has not determined does not consent to the reduction the Court may if it thinks fit, dispense with the consent of that creditor, on the Company securing payment of his debt or claim by appropriating, as the Court may direct, the following amount—

(a) If the Company admits the full amount of the debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim,

(b) If the Company does not admit and is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the Company were being wound up by the Court.

The Court, if satisfied, with respect to every creditor of the Company who is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit, and it may make an order directing that the Company shall, during such period, commencing on or at any time after the date of the order, as is specified in the order, add to its name as the last words thereof the words “and reduced”; and requiring the Company to publish as the Court directs the reasons for reduction or such other information in regard thereto as the Court may think expedient with a view to giving proper information to the public, and if the Court thinks fit, the causes which led to the reduction.

Where a Company is ordered to add to its name the words “and reduced,” those words are, until the expiration of the period specified in the order, to be deemed to be part of the name of the Company

In the case of a reduction of share capital a member of the Company, past or present, is not liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount of the share as fixed by the minute and the amount paid, or the reduced amount, if any, which is to be deemed to have been paid on the share, as the case may be (Sect 59.)

**Notices of Alteration of Share Capital.**—If a Company having a share capital has done any of the following—

(1) Consolidated and divided its share capital into shares of larger amount than its existing shares,

- (2) Converted any shares into stock,
- (3) Re-converted stock into shares,
- (4) Subdivided its shares or any of them,
- (5) Redeemed any redeemable preference shares, or
- (6) Cancelled any shares, otherwise than in connection with a reduction of share capital under Section 55 of this Act ;

it must, within one month after so doing, give notice thereof to the Registrar of Companies specifying, as the case may be, the shares consolidated, divided, converted, sub-divided, redeemed, or cancelled, or the stock re-converted.

Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, it has within fifteen days after the passing of the resolution authorizing the increase, to give to the Registrar of Companies notice of the increase, and the Registrar has to record the increase

The notice to be given must include such particulars as may be prescribed with respect to the classes of shares affected and the conditions subject to which the new shares have been or are to be issued, and a printed copy of the resolution authorizing the increase must be forwarded to the Registrar of Companies together with the notice

**Transfer of Shares.**—By Section 63 of the 1929 Act, it is provided that—

“Notwithstanding anything in the Articles of a Company, it shall not be lawful for the Company to register a transfer of shares in or debentures of the Company unless a proper instrument of transfer has been delivered to the Company,

Provided that nothing in this section shall prejudice any power of the Company to register as shareholder or debenture holder any person to whom the right to any shares in or debentures of the Company has been transmitted by operation of law ”

A transfer of the share or other interest of a deceased member of a Company made by his personal representative, although the personal representative is not himself a member of the company, is as valid as if he had been such a member at the time of the execution of the instrument of transfer

On the application of the transferor of any share or interest in a Company, the Company must enter in its register of members the

name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee

If a Company refuses to register a transfer of any shares or debentures, the Company must, within two months after the date on which the transfer was lodged with the Company, send to the transferee notice of the refusal

**Share Warrants.**—A Company limited by shares, if so authorized by its Articles, may, with respect to any fully paid-up shares, issue under its common seal a warrant (termed a “share warrant”) stating that the bearer of the warrant is entitled to the shares therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares included in the warrant.

A share warrant entitles the bearer to the shares therein specified, and the shares may be transferred by delivery of the warrant.

**Payment of Interest Out of Capital.**—Where any shares of a Company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the Company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the sum so paid by way of interest to capital as part of the cost of construction of the work or building, or the provision of plant. Section 54 provides, however, that—

(1) No such payment shall be made unless it is authorized by the Articles or by special resolution ;

(2) No such payment, whether authorized by the Articles or by special resolution, shall be made without the previous sanction of the Board of Trade ,

(3) Before sanctioning any such payment the Board of Trade may, at the expense of the company, appoint a person to inquire and report to them as to the circumstances of the case, and may, before making the appointment, require the Company to give security for the payment of the costs of the inquiry ,

(4) The payment shall be made only for such period as may be determined by the Board of Trade, and that period shall in no case extend beyond the close of the half-year next after the half-year

during which the works or buildings have been actually completed or the plant provided,

(5) The rate of interest shall in no case exceed 4 per cent per annum or such other rate as may for the time being be prescribed by Order in Council,

(6) The payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid,

(7) The accounts of the Company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate,

(8) Nothing in this section shall affect any Company to which the Indian Railways Act, 1894, as amended by any subsequent enactment, applies

**Dominion Registers.**—By Section 103 (1), a Company having a share capital whose objects comprise the transaction of business in any part of His Majesty's dominions outside Great Britain, the Channel Islands, or the Isle of Man may cause to be kept in any such part of His Majesty's Dominions in which it transacts business a branch register of members resident in that part. This is called a Dominion Register

The Company must give to the Registrar of Companies notice of the situation of the office where any dominion register is kept, and of any change in its situation, and of the discontinuance of the office in the event of its being discontinued. Such notice must be given within 14 days of the opening of the office or of the change or discontinuance

By Section 104 a dominion register is deemed to be part of the Company's register of members referred to as the principal register.

It must be kept in the same manner in which the principal register is by the Act required to be kept, except that the advertisement before closing the register must be inserted in some newspaper circulating in the district where the dominion register is kept, and that any competent court in that part of His Majesty's dominion where the register is kept may exercise the same jurisdiction of rectifying the register as is under the Act exercisable by the High Court, and that the offence of refusing inspection or copies of a dominion register and of authorizing or permitting the refusal, may

be prosecuted summarily before any tribunal having summary criminal jurisdiction in that part of His Majesty's dominions

- The Company must transmit to its registered office a copy of every entry in its dominion register as soon as may be after the entry is made, and must cause to be kept at its registered office, duly entered up from time to time, a duplicate of its dominion register, and the duplicate is deemed to be part of the principal register.

Subject to the provisions with respect to the duplicate register, the shares registered in a dominion register must be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a dominion register must, during the continuance of that registration, be registered in any other register

The Company may discontinue to keep any dominion register, and thereupon all entries in that register are to be transferred to some other dominion register kept by the Company in the same part of His Majesty's dominions or to the principal register

Subject to the provisions of the Act any Company may, by its Articles, make such provisions as it may think fit respecting the keeping of colonial registers.

**STAMP DUTIES.**—An instrument of transfer of a share registered in a dominion register, other than such a register kept in Northern Ireland is deemed to be a transfer of property situated out of the United Kingdom, and unless executed in any part of the United Kingdom is exempt from stamp duty chargeable in Great Britain.

**Inspection of Documents.**—Any person may inspect the documents kept by the Registrar on payment of such fees as may be appointed by the Board of Trade, not exceeding one shilling for each inspection And any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document, or any part of any other document, to be certified by the Registrar on payment for the certificate, certified copy, or extract, of such fees as the Board of Trade may appoint, not exceeding five shillings for a certificate of incorporation and not exceeding sixpence for each folio of a certified copy or extract. A folio is deemed to consist of seventy-two words. (Sect. 314 )

**Definition of Joint-stock Company.**—A Joint-stock Company is defined by Sect 322 for the purpose of Part IX of the Companies Act, as far as relates to the registration of companies as companies

limited by shares, as—"a Company having a permanent paid-up or nominal share capital of fixed amount divided into shares also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons, and such a Company when registered with limited liability under this Act shall be deemed to be a Company limited by shares."

## CHAPTER VI

### NEW ISSUES AND OFFICIAL QUOTATIONS

UPON the formation of a new company and the offer for subscription of its stock or shares, a formal application has to be made to the Stock Exchange for permission to deal in the securities, for no dealings, whether for cash or for the account, will be allowed on any new issue unless allowed by the Committee or excepted from this rule (159) under Appendix 34D or 34E. It is proposed to deal with these *seriatim*. Dealing in results is not allowed. Rule 161, which ran as follows: "The Committee will not allow dealings in shares or securities issued to the vendors credited as fully or partly paid until six months after the date on which permission was given for dealings in the shares or securities of the same class subscribed for by the public: but this does not necessarily apply to reorganization or amalgamation of existing companies or to cases where no public shares are issued, or to cases where the vendor takes the whole of the shares issued for cash," has now been deleted from the rules. But Rule 162 (1) still stands, that "the Committee may order the quotation in the Official List of any security of sufficient magnitude and importance and in which there is sufficient public interest. Rule 163 has also been deleted. It ran as follows "Securities issued to vendors credited as fully or partly paid shall not be quoted until six months after the date on which permission was given for dealings in the securities of the same class subscribed for by the public, nor unless a quotation for the latter is also granted."

Applications for quotations must be made to the Secretary of the Share and Loan Department and must comply with such conditions and requirements as may be ordered from time to time by the Committee and as laid down in Appendix 35, except in cases where the Committee may determine to waive one or more of such conditions or requirements. Three days' public notice must be given of every application, and a broker, a member of the Stock Exchange, must be authorized to give the Committee full information as to the security and to furnish them with all particulars they may require (Rule 162 (4)).



Consideration will now be given to the regulations which must be complied with before permission will be granted to deal in new issues on the Stock Exchange.

A. In the first instance an application must be made to the Secretary of the Share and Loan Department and the following documents and particulars must be sent to him—

(1) The Certificate of Incorporation (in the case of a Company registered abroad, notarially certified copy or translation of Certificate of Incorporation and of by-laws), the Certificate entitling the Company to commence business (if required) and Memorandum and Articles of Association and copy or draft of Trust Deed (if applicable)

(2) Copy of Resolutions authorizing the issue

(3) Certified Copy of Agreement relating to issue of shares credited as fully paid, and of any other contracts mentioned in prospectus

(4) In the case of an issue for cash, copy of prospectus, offer for sale, or circular of issue stating all material conditions relating to the flotation of the issue and (in the case of a new Company) to the formation of the Company, and if the issue was publicly advertised, a copy of the principal London newspaper in which the full prospectus was advertised. Where an issue has been made by prospectus, offer for sale or circular, it must be stated whether any shares are under option and at what prices, when they expire, and the amount of any consideration given for them

(5) Specimen (or advanced proof) of allotment letter, and, if possible, of scrip and definitive certificates Allotment letters must be serially numbered and be printed on good quality paper. If a renunciation letter is attached to an allotment letter it must not be current for a period exceeding six weeks in the case of fully-paid shares, and one month from the date of the final call in the case of partly paid shares The form of renunciation on allotment letters (and letters of Rights) must either be printed on the back or attached to the document, and any split must be certified by an official of the Company.

Where a Government, Municipality, or Company have sold an issue of stock and it is subsequently offered to the public a certified copy of the resolution or other document evidencing that the purchasing house has received due authority to issue the scrip

It is suggested that letters of allotment should contain the

distinctive numbers of the shares allotted in order to facilitate the certification of transfers

(6) Letter stating—

(i) The distinctive numbers of the shares for which application for permission to deal is being made distinguishing those allotted (a) for cash, (b) to vendors or others for a consideration other than cash or in exchange for cash, (c) in pursuance of an option.

(ii) The number of shares unissued or for which permission to deal is not applied for distinguishing those (a) allotted to vendors or others for a consideration other than cash or in exchange for cash; (b) under option, (c) reserved for further issue

(iii) Whether or not, in the case of a further issue, the shares are identical in all respects with existing shares.

(7) Approximate date when definitive certificates will be ready for issue

(8) List of allottees or present holders—name, address, and holding (when required).

(9) In all cases other than Government and Municipal Loans and issues by Statutory Boards, Companies incorporated by Special Act of Parliament and other similar authorities, whether the issue is made by prospectus or otherwise, particulars of any underwriting or commission must be disclosed and a copy of the underwriting agreement and sub-underwriting letter, if any. The Committee may also require full particulars of sub-underwriters and the amount sub-underwritten

(10) An undertaking under the seal of the Company to the following effect—

(i) To split letters of allotment, and letters of rights, and to have such splits certified by an official of the Company.

(ii) That within one month of the lodgment of a transfer the definitive certificate will be issued, and that if required a balance certificate will be issued within the same period.

(iii) Notification will be sent to a stock or shareholder immediately a transfer has been certified out of his name

(iv) All allotment letters, serially numbered, will be issued simultaneously. If it is impossible to issue letters of regret at the same time a notice to that effect to be inserted in the Press on the morning after the letters of allotment have been posted.

(v) Transfers will be certified against allotment letters.

(vi) Where an issue of share warrants to bearer is made. (a) to issue such warrants in exchange for registered shares within three weeks of the deposit of the share certificate, and (b) to certify transfers against the deposit of share warrants to bearer

(vii) Notification to be sent to the Share and Loan Department without delay

(a) Of any changes in the Directorate by death, resignation, or removal,

(b) Of any extension of time granted for the currency of temporary documents

(viii) To forward to the Share Loan Department—

(a) Three copies of the Statutory and Annual Report and Accounts as soon as issued (unless such provision is contained in the Articles).

(b) Three copies of all resolutions increasing the capital and all notices relating to further issues of capital, call letters, or any other circular at the same time as sent to the shareholders

(c) Three copies of all resolutions passed by the Company in General Meeting excepting resolutions passed at an Ordinary General Meeting for the purpose of adopting the Report and Accounts, declaring dividends and re-electing Directors and Auditors

(d) To advise the Share and Loan Department by letter of all dividends recommended or declared immediately the Board Meeting has been held for that purpose

*B* Where no prospectus is publicly advertised, or no circular is issued to shareholders, an advertisement must appear in two leading London morning newspapers giving all material conditions relating to the formation of the Company and to the flotation of the issue, and must be headed as follows—

“This notice is not an invitation to the public to subscribe, but is issued in compliance with the Regulations of the Committee of the Stock Exchange, London, for the purpose of giving information to the public with regard to the Company. The directors collectively and individually accept full responsibility for the accuracy of the information given.”

A copy of the advertisement must be signed by all the directors, and forwarded to the Share Loan Department together with a properly certified copy of the resolution of the Board approving and authorizing the advertisement. In the case of foreign Companies,

however, the signed copy of the advertisement may be dispensed with on satisfactory evidence being provided that it has been approved and authorized by a resolution of the Board. A copy of each of the newspapers in which the advertisement appears must be supplied. The following Sections, I to IV, give the particulars which must be advertised in different cases—

I A Company (other than one incorporated by Special Act of Parliament) none of whose capital is dealt in or quoted and whose annual accounts for at least two years have not been made up and audited must advertise the following information—

- (1) How, when, and where it was incorporated,
- (2) Its principal objects,
- (3) The directors' names, addresses, and descriptions,
- (4) The names and addresses of the Bankers, London Brokers, Secretary, and Auditors (in the case of the latter it must be stated whether chartered accounts or otherwise),
- (5) The address of the registered office;
- (6) The nominal capital, the amount issued or agreed to be issued, the amount paid up, and the rights of each class of share,
- (7) Details of any loan capital issued, outstanding or agreed to be issued, together with the rights of the holders, and the Company's obligations in respect thereof;
- (8) Brief particulars of any mortgages or charges subsisting on any part of the assets;
- (9) Where the company is not incorporated in the United Kingdom it must be stated whether it has or has not a place of business in the United Kingdom, and if it has the address must be given;
- (10) Where capital is issued or agreed to be issued for cash, the price and terms must be stated together with the dates on which instalments are due and the amount of calls and instalments in arrear;
- (11) The provisions of the Articles of Association regarding directors, viz. their qualifications, their remuneration, their power, if any, to vote themselves remuneration, their borrowing powers, and how such powers can be varied,
- (12) A clear statement must be given of the working capital at the start of the Company, any subsequent additions and how derived and the amount available for working capital at the date of the statement, after providing for all purchase considerations, promotion

profits, preliminary expenses, losses, and interest or dividend payments to date. The directors must state that, in their opinion, the working capital available is sufficient or, if not, how it is proposed to raise any additional amount necessary,

(13) Particulars of any preliminary expenses incurred and any capital issued or proposed to be issued fully or partly paid up otherwise than in cash and the consideration received for same,

(14) The names and addresses of the vendors of any property purchased, the consideration payable, whether in cash or shares, and any amount payable for goodwill

(15) Details of any payment to any promoter, the consideration for same, and any payments or special terms granted to any persons in connection with the issue,

(16) Full particulars of any Company acting as promoter or principal underwriter, and of all material contracts entered into,

(17) If any capital is under option the price and term and the consideration for which it was granted,

(18) The interest, if any, of every director in the promotion of the Company,

(19) A statement of any consideration paid to a director or any firm of which he is a member, to induce him to become a director, or for services rendered in connection with the promotion or formation,

(20) A statement certified by the auditors as to the periods for which the accounts have been made up and audited, with details of the share and loan capital subscribed, dividends paid, and amounts carried forward and to reserve out of the profits of any such periods as shown in the accounts submitted to the shareholders,

(21) A copy of the last audited Balance Sheet and Profit and Loss Account with a copy of the auditors' certificate,

(22) A statement by the accountants named in the advertisement of the profits for the three financial years preceding the date of the advertisement of any business acquired or proposed to be acquired.

(23) A reasonable time must be allowed (not less than seven days) during which all documents referred to in the prospectus, and copies of all audited accounts since the formation of the Company, with the auditor's certificates, can be inspected by the public at a place in the City of London.

II. In the case of a Company (other than one incorporated by Special Act of Parliament) no part of whose share or loan capital

is already dealt in or quoted, and whose annual accounts for at least two years have been made up and audited, the details to be advertised are very similar to those set out in Section I, the following being the material alterations—

No 10. Applies to capital issued or agreed to be issued for cash within the preceding twelve months.

No 11. Only details of the directors' borrowing powers are asked for.

No. 12. Requires only the directors' statement regarding the working capital available, or to be raised

Nos 13 and 14 Details of the matters in question must be given for the preceding two years.

No. 15 Any payments or special terms granted within the preceding two years to any person in connection with the issue or sale of any stock, shares, or securities

No. 16. Dates and parties to all material contracts, with the nature of the contract entered into within the preceding two years, not being contracts entered into in the ordinary course of business.

No. 20 Reads A copy or summary of the last audited Balance Sheet and Profit and Loss Account with a copy of the auditors' certificate. A statement certified by the auditors giving details of the share or loan capital subscribed and cash actually received in connection therewith within the preceding twelve months with details of all dividends paid and amounts carried forward or to reserve as shown in accounts submitted to the shareholders for each of the preceding two years.

No. 23. Is the same as in Section I, with the exception that the accounts exhibited must be for the preceding two years.

All other details are the same as in Section I

III Where permission to deal in, or a quotation for, any capital has been granted (except in the case of a Company incorporated by Special Act of Parliament) the following particulars must be advertised.

(1) Details of the further capital in which permission to deal is being applied for stating particularly—

(a) If stocks or shares, the rights conferred. If debentures, debenture stocks, or securities, the rights conferred, details of any sinking fund, rights of conversion, any right of redemption before maturity, and in either case the limits of the authorized issue.

(b) The price and terms of the issue and whether fully paid or not  
If the latter, details of all payments due and the dates thereof  
Details of any consideration other than cash received in respect of the issue

(c) Particulars of any payments or special terms granted to any person in connection with the issue or sale

(d) The dates and parties to all material contracts, and the nature of the contract.

(e) A period of not less than seven days during which copies of all documents referred to in the advertisement can be inspected by the public in the City of London.

(2) Details of any capital under option and full particulars of the option and the consideration for which it was granted

(3) Names of the directors and the London Brokers

(4) Name, address, and professional qualification of the auditors

(5) A statement that further particulars are contained in the current issue of the Stock Exchange Official Intelligence

IV. In the case of Government and Municipal Loans and issues by Statutory Boards, Companies Incorporated by Special Act of Parliament, and other similar authorities, the particulars required in the advertisement are—

(1) Full particulars of the capital in which permission to deal is being applied for and in particular—

(a) The rights conferred, full details of any sinking fund, any right of redemption before maturity, any right of conversion, the security upon which any loan is charged.

(b) The price and terms of the issue and whether fully paid or not  
If partly paid the amount and due dates of all payments due

(c) The dates and parties to all material contracts with a description of the nature of the contract

(d) A period of not less than seven days during which the public may inspect in the City of London a copy of the Statutes, Orders, or other authorities under which the issue has been created, and copies of the Trust Deed and material contracts. If any of these documents are not in the English language notarially certified translations must be exhibited

(2) Details of any capital under option, and full particulars of the option and the consideration for which it was granted.

(3) Names of directors and auditors (if any), with qualification.

(4) Name of secretary and address of chief office.

(5) Names of bankers and London brokers.

C. Where a broker is instructed to sell on behalf of a Company a further issue of stock or shares forming a part of an amount previously created (permission to deal, if necessary, having been given for the original issue) he may obtain permission to deal on presentation of a letter from the Company authorizing him to make the sale, or he may sell the stock or shares previous to permission being given, provided the sale is made subject to permission being granted.

D. In the case of securities of a purely local nature within Great Britain or Northern Ireland or of a Dominion, Colonial, or Foreign issue of which no former security has been quoted previously on a Dominion, Colonial, or Foreign exchange a broker may make a specific bargain with the authority of the sub-committee on new issues and official quotations, but bargains shall not be recorded in the Supplementary List until permission to deal in the issue has been granted.

E. In the case of securities quoted on a Dominion, Colonial, or Foreign exchange or in the case of new issues where a previous issue of the same Country, Corporation, or Company has been quoted on a Dominion, Colonial, or Foreign exchange, a member may make a bargain, provided that a jobber may not make such bargain out of a market in which he acts as a jobber. Such bargains shall not be recorded in the Supplementary List until permission to deal in the issue has been granted.

Assuming that the Secretary of the Share and Loan department is in possession of the documents and conditions required, and all other requirements have been fulfilled, he will then consider the application; but he will not allow an official quotation until certain conditions have been complied with. It is therefore desirable for a Company's legal advisers in drafting Articles of Association to understand what these conditions are, for the Stock Exchange Rules go beyond the requirements of the Company Acts in that they have provided for additional safeguards in the shape of the fullest information being given, both for the benefit of their own members and of the general public on whose behalf they deal. One of these safeguards is that a broker, a member of the Stock Exchange, must be authorized to give the committee full information as to the security and to furnish them with all particulars they require.



It has been already stated that the committee have power to order the quotation in the Official List of any security which they consider of sufficient magnitude and importance, and that the application must be made to the Secretary of the Share and Loan Department, but it must comply with the conditions and requirements which the Committee may order, except where they may agree to waive one or more of such conditions and requirements (see Rule 162)

#### A. CONDITIONS PRECEDENT TO AN APPLICATION FOR OFFICIAL QUOTATION

These conditions are those stated in Appendix 35A to 35E of the Rules—

(1) That the Memorandum, Articles of Association, By-laws, or Charter of Incorporation, and Trust Deed (in the case of an application for debentures or debenture stock so secured), or other authority under which the capital has been created and issued shall be in a form approved by the Committee

*Articles of Association* means the Articles of Association of a Company as originally framed or as altered by special resolution, including, so far as they apply to the Company, the regulations contained (as the case may be) in Table B in the schedule annexed to the Joint Stock Companies Act, 1856, or in Table A in the First Schedule annexed to the Companies Act, 1862, or in that Table as altered in pursuance of Section 71 of that Act, or in Table A in the First Schedule to the Companies (Consolidation) Act, 1908, or in that Table as altered in pursuance of Section 118 of that Act, or in Table A in the First Schedule to the Companies Act, 1929

*Company* means a Company formed and registered under the Companies Act, 1929, or an existing Company, an "Existing Company" means a Company formed and registered under the Joint Stock Companies Acts, the Companies Act, 1862, or the Companies (Consolidation) Act, 1908, but does not include a company registered under those enactments in Northern Ireland or the Irish Free State.

A Company having a share capital which does not issue a prospectus on or with reference to its formation, or which has issued such a prospectus but has not proceeded to allot any of the shares offered to the public for subscription, must not allot any of its shares or debentures unless at least three days before the first allotment of

either shares or debentures, there has been delivered to the Registrar of Companies for registration a statement in lieu of prospectus signed by every person who is named therein as a director, or a proposed director, of the Company or by his agent authorized in writing, in the form and containing the particulars set out in the Fifth Schedule to the Act of 1929 (Sect 40) This Section does not apply to a private Company

The Fifth Schedule to the Companies Act, 1929, sets out the following form—

FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE  
DELIVERED TO REGISTRAR BY A COMPANY WHICH  
DOES NOT ISSUE A PROSPECTUS OR WHICH DOES NOT  
GO TO ALLOTMENT ON A PROSPECTUS ISSUED.

THE COMPANIES ACT, 1929.

Statement in lieu of Prospectus  
delivered for registration by

[Insert the name of the company]

Pursuant to section 40 of the Companies Act, 1929.

Delivered for registration by

The nominal share capital of the  
Company . . . . .

Divided into . . . . .  $\pounds$  Shares of  $\pounds$  each

" " "

" " "

Amount (if any) of above capital  
which consists of redeemable pre-  
ference shares

Shares of  $\pounds$  each.

The date on or before which these  
shares are, or are liable, to be  
redeemed

Names, descriptions and addresses  
of directors or proposed directors

If the share capital of the Company  
is divided into different classes  
of shares, the right of voting at  
meetings of the Company con-  
ferred by, and the rights in  
respect of capital and dividends  
attached to, the several classes  
of shares respectively

Number and amount of shares and  
debentures agreed to be issued as  
fully or partly paid up otherwise  
than in cash

1. shares of  $\pounds$  fully  
paid

2. shares upon which  
 $\pounds$  per share  
credited as paid.

The consideration for the intended  
issue of those shares and debentures

3. debenture

$\pounds$   
4. Consideration—

Names and addresses of vendors of  
property purchased or acquired,  
or proposed to be purchased or  
acquired by the Company

Amount (in cash, shares, or debentures) payable to each separate vendor

Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill

Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the Company, or

Rate of the commission .

The number of shares, if any, which persons have agreed for a commission to subscribe absolutely

Estimated amount of preliminary expenses .

Amount paid or intended to be paid to any promoter

Consideration for the payment .

Dates of, and parties to, every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the Company or entered into more than two years before the delivery of this statement)

Time and place at which the contracts or copies thereof may be inspected.

Names and addresses of the auditors of the Company (if any)

Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the Company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the Company.

Total purchase price £

Cash . £

Shares . £

Debentures . £

Goodwill . £

Amount paid.

„ payable.

Rate per cent.

£

Name of promoter

Amount £ .

Consideration—

If it is proposed to acquire any business, the amount, as certified by the persons by whom the accounts of the business have been audited, of the net profits of the business in respect of each of the three financial years immediately preceding the date of this statement provided that in the case of a business which has been carried on for less than three years and the accounts of which have only been made up in respect of two years or one year the above requirement shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years, and in any such case the statement shall say how long the business to be acquired has been carried on

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Signatures of the persons above-named  
as directors or proposed directors,  
or of their agents authorised in  
writing )

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Date

The word *Vendor* is defined by Part III of the Fourth Schedule to the Companies Act as being "every person . . . who has entered into any contract, absolute or conditional, for the sale or purchase or for any option of purchase of any property to be acquired by the Company in any case where—

" (a) The purchase money is not fully paid at the date of issue of the prospectus, or

" (b) The purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or

" (c) The contract depends for its validity or fulfilment on the result of that issue

" (3) Where any of the property to be acquired by the Company is to be taken on lease this Schedule shall have effect as if the

expression 'vendor' included the lessor, and the expression 'purchase money' included the consideration for the lease, and the expression 'sub-purchaser' included a sub-lessee "

"Financial year" means the year in respect of which the accounts of the Company or of the business, as the case may be, are made up, and where by reason of any alteration of the date on which the financial year of the Company or business terminates the accounts of the Company or business have been made up for a period greater or less than a year, that greater or less period is deemed to be the financial year

The Stock Exchange Rules, Appendix 35A, provide in addition that—

(2) The Stock certificate, Share Certificate, Debenture, or Bond shall be in a form approved by the Committee .

(3) Permission to deal must have been granted, or, in cases prior to August, 1914, a special settling day fixed.

(4) That two-thirds of the issue for which official quotation is desired, whether such issue be the whole or part of the authorized amount, shall have been applied for by and unconditionally allotted to the public, shares or securities granted in lieu of money payments not being considered to form a part of such public allotment.

(5) The definitive Stock or Share Certificate, Debenture Bond, or other security must be ready for delivery

(6) At least the first annual Report and Accounts must have been issued.

(7) There must be sufficient public interest in the security, and it must be of sufficient magnitude and importance.

By Section 101 of the Companies Act, 1929, "no notice of any trust, expressed, implied, or constructive, shall be entered in the register or be receivable by the registrar, in the case of Companies registered in England."

## B ARTICLES OF ASSOCIATION

Appendix 35B, Stock Exchange Regulations, provides that Articles of Association shall contain the following provisions—

(1) The directors must hold a share qualification, which must not be merely nominal.

(2) That the borrowing powers of the Board are limited

(3) That the non-forfeiture of dividends is secured

(4) That the common form of transfer shall be used, and that there shall be no restrictions on the transfer of fully-paid shares

(5) That all share and stock certificates shall be issued under the common seal of the Company, and shall bear the signatures of one or more directors and the secretary.

(6) That fully-paid shares shall be free from all lien.

(7) That a director shall not vote on any contract in which he is interested

(8) That the directors shall have power at any time and from time to time to appoint any other qualified person as a director, either to fill a casual vacancy or as an addition to the Board, but so that the total number of directors shall not at any time exceed the maximum number fixed ; but that any director so appointed shall hold office only until the next following Ordinary General Meeting of the Company, and shall then be eligible for re-election

(9) That the Company in General Meeting may have power by Extraordinary Resolution to remove any director before the expiration of his period of office.

(10) That a printed copy of the Report accompanied by the Balance Sheet and Statement of Accounts shall, at least seven days previous to the General Meeting, be delivered or sent by post to the registered address of every member, and that three copies of each of these documents shall at the same time be forwarded to the Secretary of the Share and Loan Department, The Stock Exchange, London

(11) That any calls paid in advance shall carry interest only and shall not entitle the holder to participate in a subsequent dividend.

(12) That where power is taken to refuse to register more than three persons as joint holders, such power shall not apply to the executors or trustees of a deceased holder.

(13) That the charge for a new share certificate issued to replace one that has been worn out, lost, or destroyed, shall not exceed one shilling

It should be noticed that Section 6 of the Companies Act states that in the case of a Company limited by shares there may be registered, but in the case of a Company limited by guarantee, or

unlimited, there must be registered, with the Memorandum, Articles of Association, and these Articles must be signed by the subscribers to the memorandum, and must prescribe regulations for the Company. Articles of Association may adopt all or any of the regulations contained in Table A in the First Schedule to the Act. In the case of an unlimited Company, the Articles, if the Company has a share capital, must state the amount of share capital with which the Company proposes to be registered. In the case of an unlimited Company, or a Company limited by guarantee, if the Company has not a share capital, the Articles must state the number of members with which the Company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration.

By Section 8, in the case of a Company limited by shares and registered after the commencement of the Act, if Articles are not registered, or if Articles are registered in so far as the Articles do not exclude or modify the regulations in Table A, those regulations shall, so far as applicable, be the regulations of the Company in the same manner and to the same extent as if they were contained in duly registered Articles.

Table A contains the regulations for management of a Company limited by shares, and in adopting Table A or in settling the Articles of Association of a Company, regard should be paid to the Stock Exchange requirements which have been already stated.

### C. TRUST DEEDS

Trust deeds should contain the following provisions—

(1) Where provision is made that the security shall be repayable at a premium either at a fixed date or at any time upon notice having been given, the trust deed must further provide that should the company go into voluntary liquidation the security shall not be repayable at a lower price than the premium then current.

(2) That any trustee appointed under any statutory or other power must, prior to appointment, be approved by a resolution of the debenture holders by extraordinary resolution. A Corporation or Company may be appointed a trustee. There must always be at least two trustees, except where one is a body corporate.

(3) That a meeting of debenture (or debenture stock) holders must be called on a requisition in writing signed by holders of at least one-tenth of the nominal amount then outstanding.

(4) The clause defining an extraordinary resolution must provide—

(a) That the quorum for passing same shall be the holders of a clear majority in value of the whole of the outstanding debentures or debenture stock, whether present in person or by proxy. If such quorum is not obtained the meeting may be adjourned for not less than 14 days. Notice of such adjournment must be sent to every holder with a statement to the effect that if the above-mentioned quorum is not present the holders then present will form a quorum.

(b) That the necessary majority for passing an extraordinary resolution must be not less than three-fourths of those voting thereat on a show of hands. If a poll is demanded the majority must again be three-fourths.

(c) That on a poll each holder shall be entitled to one vote for every £10 of debenture or debenture stock held. If the lowest denomination in which the stock may be transferred is more than £10, such amount may be substituted.

(5) That a note of any payment made off of part of the amount due on a security must be made on the document unless a new document is issued.

(6) That the common form of transfer be used for a registered security and that not more than one shilling shall be charged for a new certificate or other document to replace one that has been lost, destroyed, or worn out.

(7) Should debentures or debenture stock be entitled "Mortgage" they should be secured to a substantial extent by a specific mortgage on freehold or long leasehold estate or other immoveable property or on ships. Debentures or debenture stocks which constitute an unsecured liability must be entitled "unsecured."

Section 117 of the Companies Act defines an extraordinary resolution as follows "A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members as, being entitled so to do, vote in person or, where proxies are allowed, by proxy at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given." It will be observed that there is a considerable difference between the two definitions.



### D. DEFINITIVE DOCUMENTS

#### I. SHARE AND STOCK CERTIFICATES AND DEBENTURES

(1) Certificates or debentures must state on their face the authority under which the Company is constituted and the amount of authorized capital.

(2) A footnote must appear on all registered certificates or debentures to the effect that no portion thereof can be registered without production of the certificate.

(3) If the capital consists of more than one class of shares of the same denomination the distinctive share numbers of each class must be printed on the front of the certificate.

(4) All certificates must be under seal and bear the requisite signatures

(5) The conditions as to capital, dividends, and redemption must be printed on all certificates of preference shares or stock

(6) In the case of debentures and debenture stock certificates the interest dates and the authority under which the issue is made must be stated on the face, and all conditions as to redemption, conversion, and transfer on the back.

#### II. BONDS

(1) The amount and conditions of the loan and the powers under which it has been contracted must be stated

(2) Bonds of English companies must be under seal and bear the requisite signatures

(3) Any Dominion, Colonial, or Foreign bonds issued in London must be countersigned by the London agents or contractors

(4) Bonds quoted abroad must be signed by an authorized person, and evidence must be furnished of his authority.

### E OTHER REQUIREMENTS

If the documents submitted to the Share and Loan Department are in order due notice will be sent to the Company and written request should be made to the secretary of the department giving particulars of the security for which official quotation is desired. An application form will then be provided, together with a note of the further requirements of the Committee. These include—

(1) Production of the certificate of incorporation and the certificate that the Company is entitled to commence business.

(2) A certified copy of the Memorandum and Articles of Association or any other relative documents affecting the constitution of the Company. With debentures or debenture stock a certified copy of the Trust Deed (if any) securing same, and the official certificate stating that the requirements of the Companies Act regarding the registration of charges have been complied with. If a foreign Company, notarially certified copies of documents corresponding to the above must be supplied, and with debenture stock of a foreign Company evidence must be furnished as to the requirements of the foreign law regarding the registration of mortgages and charges and compliance therewith.

(3) Certified copies of all prospectuses, offers for sale, advertisements required under Appendix 34B, circulars issued or resolutions passed.

(4) Certified copies of the definitive on temporary documents.

(5) Certified copies of all material contracts, agreements, etc.

(6) Certified copy of the last published Report and Accounts

(7) A short history of the Company, stating its origin, progress, dividends, particulars of the various issues of shares, the number of transfers registered during the preceding twelve months and the number of shares or amount of stock represented by same.

(8) A statutory declaration by the chairman and secretary stating

(a) That all legal requirements have been complied with and all necessary documents filed with the Registrar of Companies. Where an English Company is charging property abroad that the necessary mortgage has been legalized and registered in the country in which the property is situated

(b) The number of shares or amount of stock, debentures, or bonds applied for by the public, the number or amount unconditionally allotted to the public, and the amount paid thereon. Details of any allotment for a consideration other than cash and particulars of any calls or instalments in arrears

(c) The definitive documents are ready for delivery, the purchase of the property has been completed and paid for. The whole of the shares, stock, or debentures are identical, i e. of the same nominal value, and the same amount paid, have the same rights in all respects, and are entitled to exactly the same amount of dividend for the same period. If applicable, that a Trust Deed has been executed and completed and the effect thereof and the nature of the charge created thereby.

(d) The total number of allottees, in an issue of stock, registered

debentures, or bonds, and the largest amount applied for and allotted to any one applicant

(9) A certified copy of the register and a statement of the total number of share, stock, or debenture holders and the ten largest holdings of each class. Where there are a very large number of holders a certified copy of the register may not be required.

(10) An undertaking under the Company's seal to forward to the Secretary of the Share and Loan Department full information regarding any alteration made in the Memorandum and Articles of Association or any other document affecting the constitution of the Company or in the form of any Trust Deed securing debentures or debenture stock or in the debentures themselves. Also to furnish particulars of any further issue of shares or loan capital, whether made for public subscription or not

(11) A letter nominating a broker to represent the Company before the Committee.

(12) In the case of an issue of a Government, Municipal, Dominion, Colonial, or Foreign Loan—

(a) The authority of the issuing house to receive subscriptions

(b) With Dominion, Colonial, and Foreign Loans, evidence that the bonds are signed by an authorized person. A specimen of his signature and authorization must also be supplied for retention.

(13) A reconstructed Company must give a short history of the old and new Company, and must supply a certified copy of the scheme of reconstruction and evidence that all necessary Orders of Court have been obtained

(14) In the case of Dominion, Colonial, and Foreign Securities quoted abroad, official evidence must be supplied of quotation either in the country of origin or where the issue was made.

(15) Documents not in the English language must be accompanied by notarially certified translations

The foregoing particulars show the precautions taken by the Stock Exchange Committee before allowing the stock, shares, or debentures of a Company to be quoted in the Official List, and also how impossible it is for stocks, shares, or debentures of a doubtful Company to be quoted

Having dealt with the conditions to be complied with in order to obtain an official quotation, it is necessary to explain the composition of the Official List. This is published daily by the trustees and

managers of the Stock Exchange under the authority of the Committee of the Stock Exchange and the superintendence of the Secretary of the Share and Loan Department. It is known as "The Stock Exchange Daily List of Officially Quoted Securities "

The securities quoted are divided into sections according to their nature, the various sections being in the order in which they appear in the list—

- (1) British Funds
- (2) Securities guaranteed under the Trade Facilities Acts of 1921/26
- (3) Corporation and County Stocks—Great Britain and Northern Ireland
- (4) Public Boards etc —Great Britain and Northern Ireland
- (5) Dominion, Provincial, and Colonial Government Securities.
- (6) Corporation Stocks—Dominion, Indian, and Colonial.
- (7) Corporation Stocks—Foreign.
- (8) Foreign Stocks, Bonds, etc. (Coupons payable in London )
- (9) Foreign Stocks, Bonds, etc. (Coupons payable abroad.)
- (10) Railways (Great Britain and Northern Ireland) Ordinary Shares and Stocks
- (11) Railways (Great Britain and Northern Ireland). Leased at fixed rentals
- (12) Railways (Great Britain and Northern Ireland) Debenture Stocks
- (13) Railways (Great Britain and Northern Ireland) Guaranteed Shares and Stocks
- (14) Railways (Great Britain and Northern Ireland) Preference Shares and Stocks
- (15) Indian Railways
- (16) Indian Native Raj and Zemindary Loans
- (17) Railways—Dominion and Colonial.
- (18) American Railroad Stocks and Shares.
- (19) American Railroad Bonds—Gold
- (20) American Railroad Bonds—Sterling.
- (21) Foreign Railways
- (22) Banks and Discount Companies
- (23) Breweries and Distilleries
- (24) Canals and Docks
- (25) Commercial, Industrial, etc.

- (26) Electric Lighting and Power.
- (27) Financial Trusts, Land, and Property
- (28) Gas
- (29) Insurance
- (30) Investment Trusts.
- (31) Iron, Coal, and Steel
- (32) Mines
- (33) Nitrate
- (34) Oil
- (35) Rubber.
- (36) Shipping.
- (37) Tea and Coffee
- (38) Telegraphs and Telephones.
- (39) Tramways and Omnibus.
- (40) Waterworks

The list is columnized and the details given vary according to the particular section. The first seven sections and the sections for American Railroads give particulars of the authorized amount, the present amount, interest payment dates, when last ex dividend, the rate per cent of the last dividend, the name of the stock; the redemption date, the quotation, and a record of the business done.

In foreign bonds the particulars given are practically the same, the only difference being that no redemption date is shown, but in addition the dates of drawings are given.

Railways (Great Britain and Northern Ireland) ordinary stocks and shares state the amount created, the amount in issue, whether stock or shares, the dividend for the last two half years, when ex dividend, the description of the stock or share, the quotation; and a record of business done.

With Railways (Great Britain and Northern Ireland) Debenture Stocks, Guaranteed Stocks and Shares, Preference Stocks and Shares the particulars are the amount created, the amount in issue, whether stock or share, the dividends for the last two half years, when ex dividend; the description of the stock or share, the amount paid, the quotation, and a record of the business done.

In the remainder of the list the particulars given are the authorized issue, the present amount, the denomination, the last two dividends, when ex dividend, the description of the stock or share, the amount paid, the quotation, and a record of the business done.

The quotation given is that ruling at 3 30 p m. on the date of the publication of the list. The markings in the record of business done do not necessarily appear in the order in which the transactions took place, as bargains may be marked at any time up to 3 30 p m. Where no business in any particular stock or share has been recorded during the day the price of the last recorded business with the date thereof is shown. Various distinguishing marks appear against some of the quotations, for instance: ‡ Bargains at special prices; Δ Bargains done with or between non-members; Φ Bargains done during unofficial hours or on the previous day.

A further list is also issued, known as "The Stock Exchange Daily Supplementary List of Securities not Officially Quoted." Rule 164 (2) states that "in the case of a Company, no part of whose share or loan capital is already dealt in, the title of the Company shall be inserted and remain in italics for 18 months, unless otherwise ordered by the Committee. The Committee may order that the bargains in certain securities be marked but not recorded "

This Supplementary List, or Unofficial List, as it is sometimes termed, is divided in the same manner as the Official List with the following exceptions: There are no sections devoted to Securities Guaranteed under the Trades Facilities Acts 1921/26; Railways (Great Britain and Northern Ireland) Debenture Stocks; Railways (Great Britain and Northern Ireland) Preference Shares or Stocks; Indian Railways; American Railroads (Sterling).

Foreign Stocks, Bonds, etc , are all treated under one heading

The section for Mines is subdivided into Australian, Miscellaneous, South African, West African

The various signs for special bargains are the same as those used in the Official List, but the information given as a whole is not nearly so exhaustive. The whole list is treated in the same manner, the only information given being the name of the stock or share, the last date on which it was marked ex dividend, the nominal quotation, and a record of business done.

Rule 164 (3) states that "a security may be removed from the record in either list on the authority of the chairman, Deputy-chairman, or two members of the Sub-committee on New Issues and Official Quotations. Any action taken under the authority conferred by this clause shall be reported to the Committee at the first available opportunity."

SPECIMEN OF ENTRIES IN THE COMMERCIAL, INDUSTRIAL, ETC., SECTION OF THE OFFICIAL LIST

Authorized Issue	Present Amount	De-nom	Divs Prev Last	When × D or × in	Name	Paid	Quotation	Business Done,
5,161,950	3,498,900	1	1/2 <sup>g</sup>	7 May	Assoc Electrical Industries Ltd, Ord	1	1 <sup>1</sup> / <sub>32</sub> —1 <sup>7</sup> / <sub>32</sub>	22/9, -/9, -/10 <sup>1</sup> / <sub>2</sub> , -/6 3/3, 3/-, 2/8 <sup>1</sup> / <sub>2</sub>
1,233,050	1,233,050	1	9 <sup>g</sup> d	25 June	Do Do 8% Cum Pref Nos 1 to 1,233,050	1	1 <sup>8</sup> / <sub>16</sub> —1 <sup>5</sup> / <sub>16</sub>	24/-, 5/-
1,462,500	1,036,350	Stk	4%	25 June	Do Do 4% Mtge Deb Red	100	72—76	72 <sup>1</sup> / <sub>2</sub> , 1 <sup>1</sup> / <sub>2</sub>
3,500,000	3,000,000	1	1/7 <sup>g</sup>	9 Apr	Assoc Portland Cement Manufrs, Ltd, Ord	1	23/—25/-	23/6 <sup>g</sup> , -/6, -/7 <sup>1</sup> / <sub>2</sub> , 4/-, -/3, 4/-, 3/9, 4/-, -/3
2,500,000	2,319,720	1	6 <sup>g</sup> d	21 Sept	Do Do 5 <sup>1</sup> / <sub>2</sub> % Cum Pref Nos 1 to 2,319,720	1	16/6—18/6 X D	18/3, -/3

SPECIMEN OF ENTRIES IN THE COMMERCIAL, INDUSTRIAL,  
ETC., SECTION OF THE SUPPLEMENTARY LIST

Name	Last Date X D	Nominal Quotation	Business Done
Amalgamated Metal Corp Ord, (£1)	11 June	$1\frac{1}{8}-1\frac{1}{8}$	15/-, 14/6, -/7 $\frac{1}{2}$ , -/3, -/9
Do Do 6% Cum Pref (£1)	25 June	$3\frac{3}{4}-3\frac{1}{2}$	18/9
<i>Elec Musical Industries, Ord</i> (£1)	—	1-1 $\frac{1}{8}$	20/6, -/7 $\frac{1}{2}$ , 1, 3 $\Delta$ , 20/7 $\frac{1}{2}$ , -/11 $\frac{1}{2}$ -/4 $\frac{1}{2}$ $\Delta$
<i>Do Do 6% Cum Red Pref</i> (£1)	—	$1\frac{5}{8}-1\frac{1}{8}$	20/-, 19/4 $\frac{1}{2}$

Rule 166 provides that "a mark shall not be expunged from the Official List or Supplementary List without the authority of the Chairman, Deputy Chairman, or two members of the Committee "



## CHAPTER VII

### THE CONTRACT

It is proposed in this chapter to explain the nature of the contract to buy or sell stocks, shares, or bonds on the Stock Exchange, and to consider the respective liabilities arising from the contract entered into between a principal and a broker and the resultant liabilities between broker and jobber and jobber and principal, and the determination of the contract. The breach of the contract arising from default is treated in the next chapter.

A broker's principal business consists in the execution of his client's orders to buy, sell, carry over, or continue bargains in stocks and shares. He, however, not infrequently collects coupons and takes charge of securities on behalf of his client and acts in other ways. Moreover, in his business he is frequently called upon to advise or to give information as to securities—either with a view to buying or selling, or for other purposes. If he is employed either to buy or sell on behalf of a client, he is also authorized to make a binding contract on his behalf. In the ordinary course of business, when a broker has received an order that may arrive by letter, telegram, telephone message, or may be given verbally, he proceeds to execute it. The way in which it is executed has been already sketched out in referring to the course of a Stock Exchange transaction. If the client gives the broker a limit, of course he executes it within the limit given, otherwise he exceeds his authority, and the client is entitled to repudiate the bargain. If he is able to execute it, he duly advises his client of its execution and forwards the contract note to him. When the client calls personally to give an order, it is generally advisable for the broker to obtain written instructions, to prevent any possibility of subsequent dispute.

It will be seen that the order and the acceptance of the order by the broker constitute a contract. Thus, the broker who has been asked to buy or sell shares buys or sells them. He has performed what he has been requested to do, and is entitled to bind his client by the bargain that he has duly made on his behalf. Therefore a note of the contract, which could be no more than

evidence of the contract, has not at all times been absolutely essential. Some contracts, however, were always required by statutory enactments to be in writing, but this was never the case with stocks and shares. Stocks and shares were not considered as goods, wares, or merchandise, the sale of which required evidence of part payment, earnest money, or memorandum in writing where the price was over £10 to render the contract enforceable (*Humble v. Mitchell* (1839), 11 A & E. 205, *Duncuft v Albrecht* (1841), 12 Sim. 189, *Bowlby v. Bell*, (1846), 3 C.B. 284) Nor was Railway scrip considered to fall within the section (*Knight v. Barker* (1846), 16 M. & W. 66) Moreover, contracts for the sale of shares of companies holding interests in land, etc., were held not to fall within the 4th section of the Statute of Frauds Debentures, however, charging a company's property, where the company possessed leasehold property, have been held to be interests in land, requiring that the contract must be made in writing (*Driver v. Broad*, [1893] 1 Q B 744), to render it enforceable

By the Finance (1909-10) Act, 1910 (10 Edw. 7, c 8), s 78 (1), however, any person who effects the sale or purchase of any stock or marketable security of the value of £5 or upwards as a broker or agent, and any person who, by way of business, deals or holds himself out as dealing as a principal in any stock or marketable security to the value of £5 or upwards, must forthwith make and execute or transmit a *contract note* to his principal, or to his vendor or purchaser as the case may be, and if a broker fails to do so he is liable to a penalty of £20, and has no legal claim to charge his brokerage; but a contract note is unnecessary where the principal is acting as broker or agent for a principal, or where the sale or purchase of stock or marketable security is under the value of £5. The section (78) does not apply in the case of transactions carried out between members of stock exchanges in Great Britain and Northern Ireland in the course of their ordinary business relations.

The absence of the receipt of a contract note puts the client in an embarrassing position. Therefore it is of the utmost importance that either a contract note should be sent or the client should be advised that the order has not been executed. There are many instances, however, where the client instructs the broker to buy or sell when a limit has been reached. In such cases considerable time may elapse before the broker can execute his commission. It is

obviously unnecessary to advise the client day by day that his order is not executed; nevertheless, a periodical report as to the current price of the stock or share is usually made. From the broker's standpoint this is advisable as it reminds a client that the instructions are still in force, while from the client's point of view it is confirmation that the broker still has the order in hand.

Before stating the form the contract note usually takes, the legal position of client and broker must be ascertained. The client, in giving the order, knows, or is assumed to know, that the broker must execute it according to the rules and regulations of the Stock Exchange. Thus, in *Sutton v. Tatham* (1839), 10 A & E. 27, where a broker was instructed to sell 250 shares by his client, although 50 shares were meant, the broker entered into a contract with another broker. On the next day the client informed his broker of the mistake, and asked if the bargain could not be made void. The broker answered 'No,' and the shareholder then said he must leave the matter in his hands, to do the best he could. The broker paid the difference and sued the client. Mr. Justice Littledale, in deciding in the broker's favour, said a person who employs a broker must be supposed to give him authority to act as other brokers do. It does not matter whether or not he himself is acquainted with the rules of the Stock Exchange.

In *Coles v. Bristowe* (1868), 4 Ch App. 3, the plaintiff, a holder of 200 shares in a company, had made a contract through a broker with a jobber. The jobber, in accordance with the custom of the Stock Exchange, substituted the names of seventeen transferees to whom the shares were transferred in different parcels. The plaintiff's broker prepared the deeds of transfer which the plaintiff executed, and handed these, with the shares, to the jobber who paid the agreed price. The Company, having stopped payment, was ordered to be wound up. The transferees, through their brokers, had paid their purchase-money to the jobber and had received, but not executed, the deeds of transfer. The plaintiff sued the jobber, filing a bill in equity, claiming to be indemnified. Since, however, the plaintiff had made his contract through the broker, who had dealt according to the Stock Exchange rules, the jobber was held not liable, as by the rules a jobber is released from liability when he has paid the purchase-money to the vendor and given the names of the transferees, who have received their transfers and

through their brokers paid the jobber. The plaintiff was taken to have made his contract through his broker on the Stock Exchange, and was so bound by the rules which released the jobbers. See also *Grissel v. Bristowe* (1868), *L.R.*, 4 *C.P.* 36.

A general authority given to a Stock Exchange broker to buy shares is an authority to buy in accordance with the Rules of the Stock Exchange (*Union and Rhodesian Trust, Ltd v Neville* (1917), 33 *T.L.R.* 245).

In *Harker v. Edwards* (1887), 57 *L.J.Q.B.* 147, Lord Esher, M.R., said "the Stock Exchange is a market and the defendant knew it to be a market. The result is that when he gave the plaintiffs authority to sell he gave them by implication authority to make a contract of sale in the form and on the conditions issued on the Stock Exchange. In other words, he impliedly gave them authority to make the contract in the very form in which this contract was made, namely, in their own names and according to the rules of the Stock Exchange. It may be that the defendant did not know all the rules, but he knew that the Stock Exchange was a market, and he knew he ought to have known the rule by which the plaintiffs must make the contract in their own names, and in so doing make themselves personally liable as principals." In *Benjamin v. Barnett* (1903), 19 *T.L.R.* 564, it was held that contracts on the Stock Exchange are made subject to the rules and regulations, and that such rules and regulations are incorporated in the contract and are binding upon the public who instruct their brokers to deal. But a client would not be bound by an unreasonable rule not known in fact to him, although a broker might; nor would he be bound by an illegal custom. An instance of an illegal custom is found in the case of *Neilson v. James* (1882), 9 *Q.B.D.* 546, where the defendant, a broker, had undertaken to sell shares of a joint-stock bank for the plaintiff, a shareholder. The shares were sold to a jobber, and an advice note of the sale was sent to the plaintiff, but the bought and sold notes between the defendant and the jobber omitted to state the name of the registered proprietor as required by Leeman's Act (30 & 31 Vict. c. 29), s. 1, in consequence of which the contract was void. The omission was in accordance with the Stock Exchange custom. The bank stopping payment, the plaintiff became liable for calls. It was held that the broker's duty was to make a valid contract, and as he had not done so, the Stock Exchange custom

being unreasonable and illegal, the defendant was liable to pay by way of damages the price at which the shares were sold. (See also *Pollock v. Stables* (1848), 12 Q.B. 765, *Robinson v. Mollet* (1875), L.R. 7 H.L. 802; *Blackburn v. Mason* (1893), 68 L.T. 510).

A purchase by a broker of a letter of allotment, when the principal client had ordered shares, letters of allotment being dealt with on the Stock Exchange, was held to be within the terms of the broker's authority (*Mitchell v. Newhall* (1846), 15 M. & W. 308).

The Stock Exchange rules have been held admissible in evidence between parties, some of whom were members of the Stock Exchange, to explain what would be reasonable time for delivery of shares (*Stewart v. Cauty* (1841), 8 M. & W. 160).

Having shown the nature of the broker's authority, in the absence of special instructions, it is next necessary to explain the effect of special instructions. These bind the broker, although obviously they would not bind third parties, who would presume that the broker was acting in the usual way, and following the practice of the market in his dealings with them.

When an order is given it should be clear and unambiguous in its terms, for if it is possible to place two constructions on it, the broker acting honestly will not only escape liability, but will render his client liable on his view of the construction (*Loring v. Davis* (1886), 32 Ch.D. 625, following *Ireland v. Livingstone* (1872), L.R. 5 H.L. 395). It is a fair answer to an attempt to disown the agent's authority to tell the principal that the departure from his intention was occasioned by his own fault, and that he should have given the order in clear and unambiguous terms.

An order given lasts till the next settling day, for such would appear to be a reasonable time.

In *Lawford v. Harris* (1896), 12 T.L.R. 275, a broker received instructions to sell certain shares at fixed prices and to telegraph to his client when the sale had been effected at an address which would be his address for four weeks.

Next day the broker received instructions to sell the shares at once at the same prices.

The current account ended on the 25th of the month, and two days later the broker sold at the prices on the 27th of the month. The shares rising in value, the question was Had the broker authority to sell after the end of the current account?—and it was

decided that he had not. Of course, a client may give what instructions he pleases, and so may bind himself. All that is referred to here is the implied authority. The net result is that where a limit is placed upon the price at which the broker may deal, the order—in the absence of any special arrangements—holds good only during the currency of the account for which it was given.

As between client and broker, the general rules of agency are applicable. Thus where the broker's authority is limited, a party who, without notice of the existence of the limitation, enters into a contract with the broker acting within the apparent scope of his authority need not inquire into the broker's authority, but may recover under his contract. This, however, is not the case where the broker had no authority at all, for then no action could be brought against the principal. If the principal is made liable in a case where a broker has exceeded the limits of his authority, he will be entitled to recover against the broker. Thus when a broker was handed securities for the purpose of raising a certain amount of money on them, but raised a sum in excess of the authority conferred on him, the lender who had taken the shares without knowledge of the limitation of authority was held entitled to hold the securities till the whole of the agent's indebtedness had been made good (*Mocatta v. Bell* (1854), 24, *Beav* 585; *Bentrick v London and Joint Stock Bank*, [1893] 2 *Ch.* 120).

A broker may accept and execute an illegal order, but he does so entirely at his own risk: thus where the plaintiff had been employed to purchase and had purchased shares in a certain company for the coming out, which under an old Act was illegal, he was held neither entitled to recover money paid on the defendant's behalf nor his commission (*Josephs v. Pebrer* (1825), 3 *B. & C.* 639). So again, notwithstanding that articles authorize a company to purchase its own shares, such a transaction is illegal (*Trevor v. Whitworth* (1887), 12 *App Cas.* 409). A broker purchasing for a company would do so at his peril. Thus if A, the broker of a company, buys shares on behalf of a company, the company can repudiate the transaction as *ultra vires*. (See also *In re London, Hamburg and Continental Exchange Banks, Zulueeta's claim* (1870), *L.R.*, 5 *Ch.* 444). A broker apparently is not bound to accept the whole of an order given to him by a client. He may accept part only. Thus in *Benjamin v. Barnett* (1903), 19 *T.L.R.* 564, a broker was instructed

to buy 70 shares in a new company, and he purchased them for the special settlement. The special settling day being fixed for April 7th, the seller had according to the rules ten days from that date for delivery. Owing to difficulties over the transfer, the broker received only 20 of the shares from the jobber on April 18th, which he tendered to his client on April 28th. The client refused to accept on the ground that his instructions were to buy 70 shares, and also on the ground that they had not been delivered in time. The broker was ordered by the Committee to pay for the remaining shares on delivery, and he paid for them on May 4th. It was decided that the amount paid for the 20 shares was a liability properly incurred, but not to the amount paid for the 70 shares, as the decision of the Committee was not such a decision as would bind the client.

The practice of buying blocks of shares in execution of several orders is a common one on the Stock Exchange. Nevertheless it has occasioned some difficulty as to how far it may be considered legal. The difficulty arose through the decision in the case of *Robinson v Mollett* (1874), *L.R. 7 H. L.* 802.

There the plaintiffs were instructed as tallow brokers to buy tallow in the market. They purchased it, together with other orders, in one block, and tendered the exact amount out of the general purchases to the defendant. The defendant declined to accept it, and the plaintiff sold at a loss, on which he brought an action. It was decided that the plaintiffs, acting as brokers or agents, had made no binding contract. In *Scott v. Godfrey*, [1901] *2 K B* 726, the question was again considered in a Stock Exchange transaction. There the defendant had employed a broker to purchase for him 225 shares, and afterwards to carry them over. The shares were carried over with other shares in a single contract. 125 were apportioned to the broker's own account, 225 to the defendant, and the rest to other clients. The broker having been declared a defaulter, his transactions with the plaintiffs, who were jobbers on the market, were closed by the official assignee. The defendants when communicated with declined to be bound by the contract, contending that the transaction was closed by the broker's default at the price current on the day of failure. The plaintiffs then sold the shares at the best prices obtainable, and sued the defendant.

The following evidence of the Stock Exchange custom was given. That where a broker is instructed by several clients to buy shares

in the same company, it is the practice of the Stock Exchange for the broker to enter into one contract with the jobber for the total number of shares, and that by the practice of the Stock Exchange the jobber is bound to know that the contract might be made by the broker on behalf of more clients than one, and if the contract was made for several clients the jobber is compelled to carry out the contract with each. That if in such a contract only one of the broker's clients required delivery of the shares purchased, the jobber was bound to carry out the contract with that particular client, and that this practice is applicable to carrying over transactions as well as to the completion of contracts of purchase. Further, when a broker becomes a defaulter it is the custom for his clients to complete the transaction with the jobber direct, although the orders of several clients might have been included by the broker in one contract with the jobber, and that the same rule would apply if the broker were to include a transaction of his own with those of his clients. The learned judge left five questions to the jury, which were respectively answered as follows. (1) Is there a custom or practice of the Stock Exchange by which brokers lump together the orders of their clients and execute them by means of one contract with a jobber? Yes. (2) Did the defendant give his order to his broker on the terms that it might be executed in that way? Yes. (3) Is there a further custom or practice by which the jobber and each client of the broker became bound to each other to carry out that part of the contract applicable to the particular client's order? Yes. (4) Did the addition to the carrying-over order of the broker's own bargain in any way affect the price? No. (5) Was the case within the custom? Yes, but it is not expedient for a broker to include his own bargain in an order executed for his clients.

In the course of his judgment Mr. Justice Bigham stated the proposition raised by the defendant thus: "It is that, having given a mandate to his broker to carry over 225 shares, that mandate was in fact never carried out, that the transaction by which a larger number of shares was carried over could not be regarded as a carrying out of his mandate; and that therefore, as his agent had not carried out the only transaction which he was authorized by him to enter into, there was no contract between the plaintiff and the defendant.

. . . No writing passed between the plaintiffs and the broker, nor is it usual that any writing should pass in such a case, the



practice being for each to make a note of the transaction in his own books, which is the only record of the transaction. The broker, after entering into this transaction with the plaintiffs, went back to his office and made an entry of it in his own book, on the one side the entry showed that he had carried over 925 shares with the plaintiffs, and on the other side that 925 shares had been carried over for particular clients, the number of shares carried over being inserted against each name, thus the defendant's name appears in the broker's book as that of the person for whom he had carried over 225 shares with the plaintiffs, being part of the 925 shares carried over with them. The defendant was then advised by his broker of the carrying over."

Mr. Justice Bigham went on to say that since the action was one of contract, whether there was a contract or not, was, in his opinion, a question of the intention of the parties. "When the broker went to the plaintiffs and carried over the shares he intended to make a valid contract on behalf of defendant with the plaintiffs as to 225 of them. He intended to do what the defendant had directed him to do. The plaintiffs intended to make with the broker any number of contracts which he might be authorized by his different principals to make. . . . Thus there was a mutual intention on the part of the plaintiffs and the broker to bring about privity of contract between the plaintiffs and the broker's respective clients. I think myself that was enough to establish the necessary privity. . . . In my opinion, privity was clearly established by the fact that authority was given by the defendant to his broker to create the privity, that the latter intended to create it, and that the person with whom he made the bargain intended that it should be created." The case of *Robinson v. Mollett* (*supra* p. 120) was distinguished on the ground that the custom there applied only to dealings between brokers themselves, and that it was not known to the client, and that therefore no contract was made. There was a vague intention to appropriate some part of the tallow in supposed execution of their client's order, but that was not sufficient, whilst here there was an actual appropriation. In *Levitt v. Hamblet*, [1901] 2 K.B. 53, A. L. Smith, M.R., said: "Apart from any consideration of the usage and rules of the Stock Exchange, and assuming that a proper appropriation has been made of the shares by the brokers, it is, in my judgment, clear

to demonstration that the jobbers can sue the client of the brokers on the ground that the client was the undisclosed principal of the brokers, and that when the brokers became defaulters, and the jobbers discovered who was the principal they had a right to call upon the principal to fulfil the contract made through the brokers."

With reference to the validity of the Stock Exchange usage which was proved in *Scott v. Godfrey*, the Court of Appeal decided (*Beckhusen & Gibbs v Hamblet*, [1901] 2 K.B., 73) against it on the ground that there was not sufficient evidence of it in that case. See further on this point *Ex parte Rogers* (1880), 15 Ch D. 207, and *May v. Angeli* (1898), 14 T.L R., 551.

Apart from the orders that brokers receive directly or personally, clerks who are paid a commission frequently receive and introduce to their firms orders from their friends and connections. It is an important matter for brokers to know how far they are bound by the acts of the clerks. The authority that the clerk receives may be extremely limited or it may be large, but except in rare cases the person introduced by his medium is ignorant of the nature of the authority. In *Spooner v. Browning*, [1898] 1 Q.B. 528, a clerk in the employment of the defendants was allowed a commission upon business introduced to them and accepted by them. He introduced two orders from the plaintiff which were accepted by the defendants through their clerk sending bought notes signed by them. The plaintiff made out the cheques to the firm. Subsequently he gave a third order to the clerk, who transmitted it to the defendants, and they executed it and sent the bought notes to the plaintiff. The plaintiff drew a cheque in favour of the clerk, which the clerk handed to the defendants. The defendants, before accepting, did not intimate whether they accepted or not. Subsequently, orders were given to the clerk, who forged bought notes and handed them to the plaintiff, cheques being drawn in payment to the clerk, who cashed them and misapplied the proceeds. It was held that there was no evidence for a jury of a holding out by the defendants to the plaintiff of the clerk, as authorized to enter into contracts on their behalf, and therefore the defendants were not liable in respect of orders subsequent to the first three.

In the course of his judgment A. L. Smith, L.J., said the question is narrowed to this: "Does the fact of a principal allowing an agent

to obtain orders for him, which he may or may not execute as he pleases, as the person giving the order well knows, afford any evidence that he holds out the agent as having authority either to bind him by contracts, or to represent that he, the principal, will execute the orders brought to him by the agent? Now it is clear that on receipt of the first order brought by the clerk, they were entitled to refuse it, and were under no obligation whatever to communicate to the plaintiff whether they would execute the order or not. . . . But it is said because they executed the first order (and the two subsequent orders) their position became altered and that by executing these orders they thereby held out the agent as having authority as regards subsequent orders to bind them by contracts, or at any rate held him out as representing that they (the defendants) would execute the orders thereafter brought to them by him unless they communicated to the plaintiff that they would not execute the order so brought." The learned Lord Justice then goes on to express his opinion that there was no legal obligation on the part of the brokers to communicate with the plaintiff, and that there was no evidence fit to be left to the jury that the defendants held the clerk out as their agent.

An example is given, on page 125, of the usual form of "bought" contract note issued by a broker to his client.

This contract stamped and signed by the broker and forwarded to the client is evidence that the broker has entered on behalf of his client into a contract with a jobber to purchase from him or his nominee the amount of stocks and shares specified in the contract. This gives rise to certain obligations on the part of the client. The most important is that of indemnifying the broker in respect of the contract. As the broker is a member of the Stock Exchange and has purchased on his client's behalf, subject to the rules and regulations, which are the customs of the Stock Exchange, the client is bound by these rules and regulations as being the customs of the market by which the broker is bound, except where such customs are illegal or unreasonable and unknown to the client. On this question reference to the Banking Companies' (Shares) Act, 1867 (30 & 31 Vict. c. 29), better known as Leeman's Act, must be made, since its provisions are habitually disregarded on the Stock Exchange, and many cases have arisen under it. It enacts that all contracts, agreements, and tokens of sale and

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purchase which shall be made or entered into for the sale or transfer or purporting to be for the sale or transfer of any shares or share or any stock or other interest in any joint-stock banking company in the United Kingdom of Great Britain and Ireland constituted under or regulated by the provisions of an Act of Parliament, Royal Charter, or Letters Patent, issuing shares or stock transferable by any deed or written instrument shall be null and

void to all intents and purposes whatsoever unless such contract, agreement, or other token shall set forth and designate in writing such shares, stock, or interest by the respective numbers by which the same are distinguished at the making of such contract, agreement, or token on the register or books of such banking company as aforesaid, or where there is no such register of shares or stock by distinguishing numbers, then, unless such contract, agreement, or other token shall set forth the person or persons in whose name or names such shares, stock, or interest shall at the time of making such contract stand as the registered proprietor thereof in the books of such banking company, and every person, whether principal, broker, or agent who shall wilfully insert in any such contract, agreement, or other token any false entry of such numbers or any name or names other than that of the firm or person in whose name such shares, stock or interest shall stand as aforesaid shall be guilty of a misdemeanour and be punished accordingly, and if in Scotland shall be guilty of an offence punishable by fine or imprisonment. Leeman's Act would not operate to avoid contracts between members of the Exchange, although it would do so in the case of non-members ignorant of the practice (*Neilson v James* (1882), 9 Q.B.D. 546, *Perry v Barnett* (1885), 15 Q.B.D. 389) "For it would not be reasonable to hold that a person is bound by a usage to make contracts contrary to Leeman's Act unless beforehand he was told or had knowledge of it, but to strangers, who are ignorant of it, it is inconsistent with the contract of employment."

With reference to the right of indemnity, this is not merely the right to the repayment of money which the broker has been paid (*Stock & Share Co v Galmoye* (1887), 8 T.L.R. 808), but a general right of indemnity in respect of obligations arising through the contract.

This has been established by a number of decisions. Thus the broker has been held to be entitled to be indemnified where he had purchased on his client's behalf shares which could not be transferred by the vendor till calls had been paid. The amount of the calls having been repaid to the vendor by the broker, ignorance of the existence of the calls did not excuse the client from being ordered to repay the broker (*Bayley v Williams* (1849), 7 C.B. 886, see also *Bayliffe v Butterworth* (1847), 1 Ex. 425; *Pollock v Stables* (1848), 12 Q.B. 765). In *Chapman v Shepherd* (1867), L.R., 2 C.P.

228, where a broker had bought shares subject to the rules of the Stock Exchange, and the contract had not been completed by transfer before the presentation of a petition for the winding-up of the company under the Companies Act, he was held entitled to recover from his client, notwithstanding the provisions of the Act which render transfers of shares void after a winding-up, since the buyer would have had a right to apply to the Court of Chancery to sanction the transfers and further at the time when the broker had made the payments the contracts had not been ascertained to be void. The effect of the statutory provisions as to transfers of shares after the commencement of the winding-up was considered in the case of *Brederman v. Stone* (1867), *L. R. 2 C P. 504*. There the plaintiff had been employed to sell shares after a company had commenced to be wound up voluntarily. The defendant declined to execute the transfers on the ground that the sanction of the liquidator had not been obtained to the transfers. The plaintiff in consequence, under the rules of the Stock Exchange, was compelled to furnish to the buyer other shares for which he paid an advanced price. The question raised was whether the defendant was excused from executing the transfer because the company was in course of winding-up at the time of the contract, the case being thus distinguishable from the former case of *Chapman v. Shepherd* (1867), *L. R., 2 C. P. 228*, where the company was ordered to be wound up subsequently to the order to purchase shares. The Court on demurrer entered judgment for the plaintiff, since, as the statute made the execution of a transfer without the sanction of the liquidators only void, but not illegal, the defendant was liable to an action for refusing to execute the transfer, and that was the case whether it was the buyer's or seller's duty to obtain the sanction of the liquidator. Again, where a broker on the instructions of his client had bought shares, which were not officially quoted, in a company registered in the Transvaal, for the coming out, and a special settling day was appointed, the broker was held entitled to receive the money paid under the Stock Exchange rules (*Hunt v Chamberlain* (1896), 12 *T. L. R.* 186).

For restrictions on transfer after the commencement of the winding-up, see Sections 173, 229, and 258 of the Act of 1929.

It may be said generally that the right to indemnity extends to all liabilities incurred by the brokers, even though they may be

remote. Thus a call paid to a seller (*Bayley v. Williams* (1849), 7 C.B. 886), a dividend paid to a seller but ordered by the Committee to be paid by the seller's broker to the purchaser (*Harker v. Edwards* (1887), 57 L.J.Q.B., 147) entitle the broker to indemnity in respect of the payment.

In *Lacey v. Hill, Crowley's claim* (1874), L.R., 18 Equity, 182, a question as to the brokers' right of indemnity arose where they had been hammered and subsequently re-admitted on payment of 6s. 8d. in the £. It was argued that the brokers could only recover an amount actually paid, and not the whole amount for which they were liable previously to their re-admission to the Stock Exchange, since the indemnity was only implied. Sir G. Jessel, M.R., in the course of his judgment dealing with this argument said "If the client has had the stock sold for him, and is credited with the proceeds, what difference can it make to him whether the brokers paid for it, or whether the persons who sold it have chosen to give them credit for that amount? He has had the stock, and he has had it sold for him; that is, he has been credited with the proceeds. Suppose a man buys a horse or a cargo of corn for his principal, and before the day of the delivery sells, crediting the principal with the proceeds on account, then, although the principal has not the thing delivered to him, he has the benefit of the sale by being credited with it on account. It appears to me that that is the true view of the present transaction, and it is utterly immaterial whether the broker, who has become personally liable for the amount, has paid at all. But in addition to this, it appears to me the case of a defaulter on the Stock Exchange differs from the case of a bankrupt by the English law. Such a defaulter obtains no discharge from his debts. All that happens is this: Unless he pays 6s. 8d. in the £ he is not admitted into the Stock Exchange again, and remains liable to actions by all his creditors. If he pays 6s. 8d. in the £ and is re-admitted then the Stock Exchange Committee will not allow any member of the Stock Exchange to sue him without their permission. The object of this is to secure that his assets shall be fairly distributed, and as I understand it, every year a man who has been a defaulter is called upon to show whether he can pay any more, and if he can pay any more he does so till he liquidates the whole debt. So that in point of fact if these gentlemen recover in this suit they will actually have to distribute what they recover

amongst their creditors on the Stock Exchange, and will be in no wise released from the payment. Last of all it is said that this is a liability as distinguished from an actual payment, and that the agent or person entitled to be indemnified has no remedy. Whatever may be the case at law (as to which I say nothing, because it is not necessary), it is quite plain that in this Court anyone having a right to be indemnified has a right to have a sufficient sum set apart for that indemnity. It is not very material to consider whether he is entitled to have that sum paid to him, or whether it must be paid direct over to the creditor. If the creditor is not a party, I believe that it has been decided that the party seeking indemnity may be entitled to have the money paid over to him. As to the observation that he may compromise for less, the answer is that the person liable to indemnify can go to the creditor and set him right. It is his own fault that the liability remains. But he is certainly in equity liable to indemnify, and liable to indemnify to the extent of the liability incurred by the agent on his behalf, and that is quite sufficient to substantiate this proof against this estate." Though, as will be seen, the right of indemnity is large, nevertheless where an account has been closed subsequent to a carry-over by reason of the broker's inability to meet his engagements there is no right to indemnity (*Duncan v. Hill*, *Duncan v. Beeson* (1873), *L.R.* 8 *Exch.* 242), although it would be otherwise if the loss arose without any personal default of the jobber (*ibid*, p. 248).

It will be noticed that there is some difference in the custom as stated; for in the last case reference is made to the principal not being in default. See also *Beckhuson v Hamblet*, [1900] 2 *Q.B.* 23. Where the client is in default and the broker becomes a defaulter, not only by reason of the client's default, but from other causes, the client is under no implied liability to indemnify the broker except in respect of his original default. Thus, if further loss is occasioned owing to the broker not being supplied with funds by the client, the client is not liable if the broker's defaults arose only in part by reason of the client's default (*Duncan v. Hill* (1873), *L.R.*, 8 *Exch.* 242). In *Hartas v. Ribbons* (1889), 22 *Q.B.D.* 254, the broker who was in default informed his client of this Stock Exchange custom, and told him that he could either have his contract completed or he could accept the official prices. He said that he would do the latter. On the broker suing him for the difference, it was held that the



client was bound to indemnify the plaintiff since he had ratified the contract.

Bowen, L J., in the course of his judgment, said: "It is suggested that there was not any consideration for such implied promise (i.e. to treat the indemnity as covering the loss on the day of the broker's default). I think there was. The defendant got rid of the risk to which he would have been subjected if the account had been kept open. It appears to me that the effect of what took place was that he elected to treat what had been done as done on his behalf, and to ratify his agent's action instead of keeping the account open and carrying out the contract on the account day. But for that fact I think the case might have been within the decision of *Duncan v. Hill*, but, under the circumstances, I think the case is distinguishable"

In *Wilson & Co v Finlay*, [1913] 1 Ch. 565, it was held that where there is an open account between a broker and his client, the broker is entitled, on the death of his client, to close the account at once and to sell the shares in respect of which he has entered into contracts on behalf of his client.

Another question arises on the default of the broker. Can the jobber enforce the contract against the broker's client, the principal? In *Beckhouson v Hamblet*, [1900] 2 Q B 18 (affirmed, [1901] 2 K.B. 73), Kennedy, J., thought that he could, but as the broker had executed the order *en bloc* with other orders, he held that under the particular circumstances no contract had been made, but when the brokers had allocated different contracts with different jobbers it was held that this established liability (See also *Levitt v Hamblet*, [1901] 2 K B. 53)

So far the broker's right to be indemnified by his client has been more particularly referred to, but what is the broker's position where he has purchased securities on his client's behalf, and the client refuses to receive the securities, or pay for them? The broker no doubt could sue for the price, but what is his position with regard to the securities? Must the broker sell them out against his principal, or is there any other course open to him to adopt? In such a case he would appear to have two courses open to him: (1) to treat the repudiation of the contract as a breach, or (2) to refuse to treat the contract as rescinded and to hold his principal to it. If he adopts the first alternative he can sue at once for

damages, or an indemnity, and can close the account at once and so fix the amount of his claim, or he can keep the bargain for himself and claim from his principal the difference between the contract price and the market price at the date of his accepting the repudiation as a breach. If he elects to hold his principal to the contract then he may bring an action for a declaration that he is entitled to an indemnity. On behalf of the broker adopting the bargain when the client has refused delivery, there is this advantage for the client: that probably his loss is considerably lightened thereby, especially where there is not a free market in the shares, and some time must necessarily elapse before they can be sold. There is at present no authority upon which a broker adopting this course, and, departing from the usual course of selling the securities, could rely, however much it would be in his client's interest.

The broker is entitled to payment for his services, but he must, of course, completely perform his contract. The Stock Exchange has now established a minimum scale of charges or commission (see Appendix No. 39). This brokerage or commission should always be inserted on the contract note (*Finance* (1909-10) *Act*, 1910, sec. 77 (1) )

By Section 43 of the Companies Act, 1929, it is lawful for a company to pay brokerage if—

- (a) The payment is authorized by the articles, and
- (b) The commission does not exceed 10 per cent of the price at which the shares are issued or the amount or rate authorized by the articles, whichever is less, and
- (c) The amount or rate per cent of the commission is disclosed in the prospectus, or statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and delivered before payment of the commission to the Registrar of Companies for registration, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice; and
- (d) The number of shares which persons have agreed for a commission to subscribe absolutely is disclosed in manner aforesaid.

How far, apart from the above, a company may pay brokerage is by no means certain. Sub-section (3) of Section 43 provides that nothing in that section shall prevent any company paying any brokerage it was heretofore lawful for a company to pay. A fair

and reasonable brokerage upon the issue of its share capital may therefore be lawful apart from the restrictions of Section 43 (See *Metropolitan Coal Consumers' Association v. Scrimgeour*, [1895] 2 Q B 604)

The Duties, Obligations, and Liabilities of the Broker to the Client now remain to be discussed

There are the duties which every agent owes to his principal (1) to act with good faith towards him, and (2) to perform the business with which he has been entrusted in a skilful manner

(1) *To act with good faith towards the client.*

Many questions will arise under this head, which perhaps may not be easily answered. For instance, it is often asked if a broker in executing an order is entitled to employ another broker as principal, instead of dealing amongst the jobbers on the Market. It is obvious that there may be many instances in which such a transaction would be advantageous to the client. There is, however, no legal authority on the subject. The Stock Exchange rule 89 (2) says that a broker may not put business through for another broker. Rule 90 states that a broker shall not execute an order with a non-member unless, thereby, he can deal for his principal to greater advantage than with a member. In such a case he may not receive brokerage from such non-member, and each contract note must state that the bargain has been done between non-members. Business which in fact comes under this rule may not be put through a jobber's book, nor may any other procedure be adopted in order to bring such business under the provisions of Rule 89. This rule 89 (1) says that when a broker receives an order from one principal to buy and from another to sell the same security, and executes the two orders simultaneously with the same dealer, the prices agreed upon must be such as at the time of dealing are believed to be fair to both principals.

The broker, it must be remembered, is acting as an agent and not as principal, so if he desires to act as principal he must make the fullest disclosure to his client. In *Waddell v. Blockey* (1879), 4 Q. B. D., 678, a broker was ordered to buy rupee paper. The defendant sold rupee paper of his own to his client, leading him to believe that he had purchased it of third parties. The rupee paper was sold at a heavy loss. In an action by the liquidator of the client it was held that he was entitled to damages, the measure being not the amount

of the loss ultimately sustained by the client, but the difference between the price paid for the rupee paper and the price which would have been received if it had been sold in the market forthwith after purchasing it. He would be treated as acting as principal, where the client has named a limit, and he has purchased under the limit and charged at the limit. In *Thompson v. Meade* (1891), 7 T.L.R. 698, this happened, and it was held that the broker was not entitled to recover differences at all, since the loss was his own and not the principal's.

In all such cases it seems that the representation that the broker had bought on behalf of his client where he had in fact sold his own stock or shares is sufficient to render him liable to an action for misrepresentation (*Wilson v. Short* (1847), 6 Hare 366, *Ex parte Dyster* (1816), 2 Rose 349). If the full and fair disclosure is made by the broker, who, it must be remembered, is acting for his principal in a quasi-fiduciary capacity, the client would have his option of choosing whether to repudiate or adopt the bargain, but no adoptions would assist the broker unless he had made the fullest disclosure (*Brockman v. Rothschild* (1831), 3 Sim. 173; *Bentley v. Craven* (1853), 18 Beav. 75). If the broker should attempt to sell his own stocks or shares through the means of a third party, who was in fact a trustee for the broker, the Courts would examine into the transaction, and, on discovering that the transaction was really the broker's, would set it aside, even after the lapse of many years (*Gillett v. Peppercorne* (1840), 3 Beav. 78). This rule applies notwithstanding that the value of the thing sold has decreased between the date of the sale and the date of the action for rescission (*Armstrong v. Jackson*, [1917] 2 K B. 822).

The rule applicable to all these transactions is the obvious one that the principal bargains for the disinterested skill of his agent exclusively for his benefit, and for that reason the necessity for a full disclosure arises. It is not sufficient that facts were mentioned which should have put the client upon inquiry, or that he could have found out if he made inquiries. The principle was stated in *Rothschild v. Brookman* (1829), 2 Dow and Cl. 188: "No man ought to be trusted in a situation that gives him the opportunity of taking advantage of the person who has reposed confidence in him. If such a man in such a situation performs any acts which are afterwards made the subject of legal inquiry he must suffer the

consequences." Then failing, when acting for vendor and purchaser, to give specific notice to each client before he begins to deal will cost him his right to commission and indemnity (*McDevitt v. Conolly* (1885), 15 L R, Ir 500).

It is a very usual practice for brokers to give a share of the commission to a person who introduces a client or clients. The recipients of these introduction payments are known as "half-book" or "half-commission" men. This form of sharing the commission is as a rule perfectly legitimate and above criticism. But where the introducer of the business owes a duty to the client, it is in most cases extremely doubtful whether such sharing of the commission does not render both parties to it liable to the penalties prescribed by the Prevention of Corruption Act, 1906. This Act makes it a misdemeanour punishable by fine and imprisonment; (1) for an agent corruptly to accept or obtain or agree to accept or attempt to obtain for himself or for any other person any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of the Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; (2) for any person corruptly to give or agree to give or offer any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of the Act done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; (3) for any person knowingly to give to any agent, or for any agent knowingly to use with intent to deceive his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead his principal.

It must be remembered that apart from the Act the broker would be liable at common law to make good all loss or damage to the principal which was the natural result of his sharing the commission without the principal's knowledge or consent with an intermediary who owed a duty to the principal. However, where a broker shares his commission with an agent he is bound by Rule 199 (5) to render

a contract note naming the agent and stating that the commission charged is shared with such agent.

By Rule 199 (1) of the Stock Exchange Rules dealing with commissions a broker may share his commission with an agent provided that (except in the case where such agent is his remiser or a clerk in his own employment) the share of the commission actually retained by him is not less than one-half of the minimum scale as laid down in Appendix 39 (*infra*) except as provided in clause (6) of this rule and in Rule 195. Clause (6) declares that in the case of a change of investments made under Clause (1) of Rule 196, a broker may share commission with an agent on both sale and purchase, provided that (except where such agent is the broker's remiser or a clerk in his own employment) the share of commission actually retained by the broker is not less than one-half of the minimum scale laid down in Appendix 39 on the side yielding the larger amount, and on the other side not less than one-half of the reduced commission allowed by Rule 196, Clause (1). Clause (1) of Rule 196 declares that on a change of investments for the same principal during the same account or the account immediately following, a broker may at his discretion, if the securities have not been continued, charge commission at a rate not less than the scale as laid down in Appendix 39 on one transaction, and a reduced commission of not less than half that rate on the other. The full rate must be charged on the side which yields the larger amount.<sup>1</sup>

#### MINIMUM SCALE OF COMMISSIONS

A Securities of or Guaranteed by the British or Indian Government having a currency of not more than Ten years, in bargains of not less than £50,000 Stock	} $\frac{1}{8}\%$ on stock
2 $\frac{1}{2}\%$ Consols, 2 $\frac{3}{4}\%$ and 2 $\frac{1}{2}\%$ Annuities . . . . .	
Other British Government Securities Indian Government Stocks Metropolitan Consolidated Stocks London County Consolidated Stocks Dominion and Colonial Government Securities County, Corporation and Provincial Securities (British, Indian, Dominion, or Colonial) Public Boards (Great Britain and Northern Ireland) Inscribed Stocks	} $\frac{1}{16}\%$ on stock
	} $\frac{1}{4}\%$ on stock

<sup>1</sup> Following representations made to them by members, the Committee are considering the alteration of the rules relating to the sharing of commission. The proposals are that banks and certain other recognized business houses shall receive one-third, and other agents, who must be registered with the Committee as such, one-quarter. This does not affect, in any way, persons in the exclusive employment of the broker.

Bank of England and Bank of Ireland Stock	$\frac{1}{4}\%$ on money
3% Treasury Bonds in bargains of not less than £50,000	$\frac{1}{16}\%$ on stock
B Bonds to Bearer other than those included in Section A A Price 1 or under	} At discretion
Bonds to Bearer other than those included in Section A Price 5 or under	
Bonds to Bearer other than those included in Section A Price 10 or under	} $\frac{1}{32}\%$ on stock
Bonds to Bearer other than those included in Section A Price 20 or under	} $\frac{1}{16}\%$ on stock
Bonds to Bearer other than those included in Section A Price over 20	} $\frac{1}{8}\%$ on stock
C Registered Stocks, Registered Debentures and Bonds	$\frac{1}{2}\%$ on money
D Shares, Registered or Bearer (other than Shares included in Section E)	

Price	£	s	d	1	- or under	.	.	.	.	At discretion
Over	1	-	to	2	-	.	.	.	.	$\frac{1}{2}$ per share
"	2	-	to	3	6	.	.	.	.	$\frac{3}{4}$ "
"	3	6	to	5	-	.	.	.	.	1 "
"	5	-	to	15	-	.	.	.	.	$1\frac{1}{2}$ "
"	15	-	to	1	10	-	.	.	.	3 "
"	1	10	-	2	-	-	.	.	.	$4\frac{1}{2}$ "
"	2	-	-	to	3	-	-	.	.	6 "
"	3	-	-	to	4	-	-	.	.	$7\frac{1}{2}$ "
"	4	-	-	to	5	-	-	.	.	9 "
"	5	-	-	to	7	10	-	.	.	1 "
"	7	10	-	to	10	-	-	.	.	1 3 "
"	10	-	-	to	15	-	-	.	.	1 6 "
"	15	-	-	to	20	-	-	.	.	2 "
"	20	-	-	to	25	-	-	.	.	2 6 "
"	25	-	-	.	.	.	.	.	.	$\frac{1}{2}\%$ on money

E Shares of Companies incorporated in the United States of America or Canada (whether dealt in in London on a Dollar or Sterling basis), with the exception of shares which are transferable by Deed of Transfer.

Price 25 cents (1/-) or under . . . . . At discretion

Over	25 cents	(1/-)	to	50 cents	(2/-)	s	d	per share
"	50 cents	(2/-)	to	87½ cents	(3/6)	.	.	$\frac{1}{2}$ per share
"	87½ cents	(3/6)	to	\$1¼	(5/-)	.	.	$\frac{3}{4}$ "
"	\$1¼	(5/-)	to	\$3¼	(15/-)	.	.	1 "
"	\$3¼	(15/-)	to	\$7½	(30/-)	.	.	$1\frac{1}{2}$ "
"	\$7½	(30/-)	to	\$10	(£2)	.	.	3 "
"	\$10	(£2)	to	\$15	(£3)	.	.	$4\frac{1}{2}$ "
"	\$15	(£3)	to	\$25	(£5)	.	.	6 "
"	\$25	(£5)	to	\$50	(£10)	.	.	$7\frac{1}{2}$ "
"	\$50	(£10)	to	\$100	(£20)	.	.	9 "
"	\$100	(£20)	to	\$150	(£30)	.	.	1 "
"	\$150	(£30)	to	\$200	(£40)	.	.	1 6 "
"						.	.	2 - "

With 6d rise for every \$50, or portion thereof, in price

## F Options for more than one account

As on bargains

Options for one account or less	} At discretion
Bargains in partly-paid stocks or shares of new issues	
Bargains in rights for cash	
Powers of Attorney for inscribed stock	
Probate and other valuations	
Securities made-up or made-down	
Short-dated securities (having five years or less to run)	
Transfers of stocks and shares	

Small Bargains—no lower commission than £1 to be charged except in the case of—

(a) Transactions amounting to less than £100 in value on which a commission of not less than 10s must be charged, or

(b) Transactions amounting to less than £20 in value on which a commission of not less than 5s must be charged

It should be noted that the above are minimum rates, and although a broker is bound not to charge less, except where authorized by the rules so to do, there is nothing to prevent him from charging more. As a general practice, however, the minimum scale is used.

By Rule 197 (1) On any transaction in which the consideration money is £2,500 or under, the full commission set out above must be charged. In the case of a transaction in which the consideration money exceeds £2,500, full commission must be charged up to that amount, but a broker may at his discretion (when in his opinion the volume of his principal's business justifies it) charge a reduced commission on the balance of the transaction, provided that in no case shall such reduced commission be less than one-half of the minimum scale laid down in Appendix 39. The provisions of Rule 196 (1) may not be applied to this rule.

(2) In the case of a transaction in not less than £50,000 stock of a security of, or guaranteed by, the British or Indian Government having a currency of not more than ten years, a broker may at his discretion charge a reduced commission on the entire amount, provided that in no case shall such reduced commission be less than one-half of the minimum scale laid down in Appendix 39.

The provisions of Rule 196 (1) may not be applied to this rule.

By Clause 4 of this rule where an order is given to invest an amount in or realize an amount from several securities and the consideration for each bargain does not exceed £2,500 the full commission must be charged, but should an order for one particular stock, amounting to



over £2,500, be only partially executed the commission may be adjusted on completion. Clause 3 states that the reduced scale allowed by Clauses (1) and (2) may not be applied when commission is charged under Rules 195, 196 (1) or Clauses 1, 2, and 4 of Rule 203, or where commission is shared with an agent under Rule 199.

By Rule 195 (1). A broker may at his discretion charge only one commission for buying and selling the same security for the same principal for the same account, or for the account immediately following, or for cash during the same account, or during the account immediately following. (2) Neither the reduced commission allowed by Rule 197 nor the concession allowed by Rule 196 may be applied to bargains done under this rule.

Rules 196 (1) and 199 (1) have already been referred to.

The clauses of Rule 203 referred to provide that (1) on a transaction for a member of any Associated Stock Exchange in Great Britain and Northern Ireland and the Irish Free State or a stockbroker whose name is included in the list of stockbrokers in Great Britain and Northern Ireland in pursuance of Section 77 (3) of the Finance (1909-10) Act, 1910, and who does not carry on business within the London postal area, such broker not being excluded by the provisions of Rule 198, a broker may at his discretion charge commission at a rate not less than the scale laid down in Clause 4 of this rule. (2) The commission laid down by this rule shall be the minimum commission to be charged on all business coming to the Stock Exchange from a member of any Associated Stock Exchange or country broker as defined in Clause 1 of this rule, except that a broker may apply to that business the provisions of Rules 195, 196 (*supra*) and 197a (*infra*). Such commission shall not be shared with anyone except a clerk in the broker's own exclusive employment. Such clerk shall not under any circumstances, either directly or indirectly, divide or share his proportion of such commission with or allow the same to such country broker.

(4) On transactions for brokers as defined in Clause 1 of this rule a broker may at his discretion charge a reduced commission at the rate of not less than one-half of the rates laid down in Appendix 39, and further he may charge the following exceptional reduced rates, viz.—

## Registered stocks—

Price £50 or under	.	.	$\frac{1}{16}\%$	} on stock
Over £50 to £100	.	.	$\frac{1}{8}\%$	
£100 to £150	.	.	$\frac{3}{16}\%$	
£150 to £200	.	.	$\frac{1}{4}\%$	

With  $\frac{1}{16}\%$  rise for every £50 in price

The provisions of Rule 196 (1) may not be applied when the exceptional reduced rates allowed by this Rule are charged.

Rule 197*a* (1) provides that in the case of a transaction for the same principal in not less than £50,000 5 per cent War Stock, 1929–47, a reduced commission may be charged of  $\frac{1}{8}$  per cent on the entire amount. This reduced commission may be shared with an agent provided the share actually retained by the broker is not less than  $\frac{1}{16}$  per cent.

(2) Provides that in the case of a like order for a member of any associated Stock Exchange in Great Britain and Northern Ireland and the Irish Free State, or a stockbroker whose name is included in the list of Stockbrokers in pursuance of Section 77 (3) of the Finance (1909–10) Act, 1910, a reduced commission of  $\frac{1}{16}$  per cent may be charged on the entire amount. This reduced commission may not be shared with anyone except a remisier or a clerk in the broker's own exclusive employment.

(3) States that the reduced rates allowed under Clauses 1 and 2 are definite minimum rates which must be charged on each purchase and sale and may not be reduced under any rule. The rates apply only to orders of not less than £50,000 stock, and they may not be applied to transactions for the same principal in less than £50,000 stock made subsequent to the original transaction in that amount.

Rule 197*b* (1) declares that on stocks included in Section A of the scale of commissions already quoted a broker may charge only one commission at not less than the rate laid down in such scale on the first £2,500 money and at not less than half that rate on the balance for buying and selling the same amount of the same stock for the same principal during a maximum period of twenty-eight days. this reduced commission may only be shared with a remisier or a clerk in the broker's own exclusive employment.

Sub-clause (2) states that this concession can only be applied to orders of £50,000 stock or more, and may not be applied to

orders for the same principal in less than £50,000 stock made subsequent to the original transaction in that amount.

By Rule 192 the minimum scale of commission, except as provided in Rule 203 (previously mentioned), is not compulsory in the case of underwriting or the placing of new issues. Nor shall it apply to continuation provided that a broker shall charge or allow in respect of continuation business a rate not more favourable to his principal than that actually paid or received by him in the market or if the continuation is effected wholly or partially by the employment of his own resources a rate which shall be fair and reasonable having regard to the market conditions of the day.

The sharing commission or giving rebates to outside brokers is expressly forbidden by Rule 198, which provides that "a broker shall, subject to the provisions of Rules 88, 90, and 204 (4), charge commission at not less than the minimum scale as laid down in Appendix 39, without modification to any stock and share broker or dealer in Great Britain and Northern Ireland and the Irish Free State, whether carrying on business in the form of a limited company or otherwise, who advertises in the public press for Stock Exchange business, or issues circulars respecting such business to other than his own principals, or who is a member of any other institution within the London postal area, where dealings in stocks and shares are carried on, and no allowance or rebate in respect of such commission shall be made to such broker or dealer or any other person, but such restriction shall not apply to a broker who remunerates a clerk in his own exclusive employment with a share of the commission charged to such outside broker or dealer."

By Rule 88 (1) a broker may not receive brokerage from more than one principal on a transaction carried through directly between two principals, and *each contract note shall state* that the bargain has been done between non-members.

Sub-clause (2) provides that, subject to the provision of Rule 204 (4), brokerage shall be charged to the non-member who initiates the business. Rule 204 (4) reads as follows: "Subject to the provisions of Rule 90 a broker when transacting business between a country broker who is entitled to the privileges of Rule 203, and an outside broker or dealer, who is excluded by the provisions of Rule 198 (*supra*), must charge the full commission as laid down in Appendix 39 to the latter and none to the former." It should be noticed that

for the purposes of administering the commission rules—(1) A broker when transacting business between a dealer and a member of the public shall be considered as acting as the agent of the non-member. (2) The remuneration of a broker when transacting business between a dealer and a country broker who is entitled to the privileges of Rule 203, must in no case be less than the minimum rate laid down in that rule. (3) A broker when transacting business between a dealer and an outside broker or dealer who is excluded by the provisions of Rule 198 (*supra*) must always charge the latter with the full commission as laid down in Appendix 39.

Commission may be shared with an agent on certain conditions. Thus by Rule 199 (1) a broker may share his commission with an agent provided that (except in the case where such agent is his remiser or clerk in his own employment) the share of the commission actually retained by him is not less than half of the minimum scale as laid down in Appendix 39 except as provided in clause 6 of this Rule, and in Rule 195 (*supra*). (2) A broker may not share his commission with an agent if the agent's share is divided with or allowed to his principal. (3) A broker may not share with an agent the commission charged on the agent's personal business; neither may he share with an agent any of the commission under this Rule on business done for a principal for whom he deals under the provision of Rule 197, clause 3 of which states that the reduced scales allowed by this Rule are not applicable when a broker charges commission under Rules 195, 196 (1) or Clauses 1, 2, and 4 of Rule 203, or when commission is shared with an agent under Rule 199. (4) A broker may not share his commission with an agent who advertises for Stock Exchange business in the Press, or who issues circulars, other than to his own principals, in Great Britain, Northern Ireland, or the Irish Free State.

By Rule 203 (3) a broker may not act as a principal or send an order to a member of an Associated Stock Exchange or country broker for the purpose of evading the minimum commission on such business, nor shall he adopt any other procedure for a like purpose. Any evasion will be treated as a breach not only of this Rule but of Rule 87, which forbids a broker making prices or otherwise carrying on the business of a dealer, or of a shunting business, or arbitrage business, except in so far as it is authorized by Rule 92. This rule provides that subject to annual authorization by the

committee, a member, whether broker or dealer, may carry on arbitrage business outside Great Britain and Northern Ireland and the Irish Free State with a non-member, but a broker so authorized may not make prices or otherwise carry on the business of a dealer, and a dealer so authorized may not act as an agent by executing orders for such non-member (Appendix, Form 32 )

The contract note which a broker renders to a non-member includes the commission Under the General Rules, Rule 88 (*supra*), it has already been stated that "each contract note shall state that the bargain has been done between non-members "

By Rule 193 it is provided that (1) a broker shall render to a non-member a contract note in respect of every bargain done for such non-member's account, stating the price at which the bargain has been done. Subject to the provisions of Rules 88 and 90 (which relate to bargains between or with non-members), such contract note shall contain a charge for commission at a rate not less than the scale in Appendix 39 or as modified by the provisions of Rules 192, 195, 196 (1), 197, 197*a*, 197*b*, or 203 (2) Subject to Rules 194, 203 (3), and 204, the Rules under the heading of "Commissions" do not lay down any restrictions as to dealings between members (3) Except for business done under Rule 199, a broker may render a net contract note provided commission in accordance with Clause 1 of this Rule is charged, and provided such contract note states that the commission is allowed for in the price

Rule 194 states that a broker may not act as a principal for the purpose of evading these Rules or adopt any other procedure for a like purpose, nor may he commute his commission for a fixed payment or salary unless in each year he be specially authorized so to do by the committee. Nor may he divide profits or commission with a non-member except as authorized by Rules 199, 200, and 201.

By Rule 201 a broker may remunerate a clerk in his own exclusive employment with a share not exceeding one-half of the commission charged to the principal he introduces, whether such commission be at the minimum scale as laid down in Appendix 39, or as modified by the provisions of Rules 195, 196 (1), 197, 197*a*, or 197*b*, provided that such remuneration is not shared by the clerk with, or allowed to, his principal Brokers will be held responsible that clerks receiving a share of commission under this or any other rule make no allowance or return of such commission, directly or indirectly, to

the principal or agent they introduce or to any other person. A broker may not share commission with a dealer or a clerk to a dealer (Rule 202), but he may employ for the purposes of his business a remisier resident outside Great Britain and Northern Ireland and the Irish Free State, whose name is registered with the committee in accordance with Appendix 40 and may remunerate such remisier with a share not exceeding one-half of the commission charged to the principal he introduces, whether such commission be at the minimum scale as laid down in Appendix 39, or as modified by the provisions of Rules 195, 196 (1) 197, 197*a* or 197*b* (see Rule 200).

Under Rule 200*a* the committee may keep a register of non-member arbitrageurs, and the committee may determine the qualifications necessary for entry on such register, how applications for registration shall be made, and the conditions upon which the same will be accepted provided that no registration shall hold good beyond the 31st January in the year following that in which the entry in the register is made. A broker doing business for any arbitrageur whose name appears on this register may charge commission at not less than one-half the minimum rate laid down in Appendix 39 on all transactions representing arbitrage business undertaken for the personal account of such arbitrageur and not being directly or indirectly business transacted by the registered arbitrageur as agent for any third party where commission is charged under this rule at less than the full scale, no other concession or privilege shall be allowed to the registered arbitrageur in respect of that business under Rules 195, 196, 197, 197*a*, 197*b*, 199, 200, 201, 203, or any other rule or usage whatsoever.

In *Bickley v Browning, Todd & Co* (1913), 30 *T L R* 134, the half-commission man was held not to be entitled to commission in respect of orders given after the determination of the employment, but was held to be entitled to an account in reference to carry-over transactions in respect of orders given before the determination of the employment.

Where a broker agreed to pay half the commission, with a fixed minimum, on all business introduced by a certain person, the Court held that it was an implied term of the agreement that the Stock Exchange should remain open. The broker was therefore not liable to pay the minimum where the Stock Exchange closed during war (*Berthoud v. Schweder & Co* (1915), 31 *T L R* 404).

The business of a stockbroker's office is not altogether confined to buying and selling shares on behalf of a client and supplying information. Frequently a client will deposit securities or allow his securities to remain with his broker for a time, and particularly in the case of bonds will depute to him the task of collecting coupons, etc. This is, of course, a matter of convenience, and a small charge for the collection is sometimes made. The broker, in making such a charge, may render himself liable for negligence, which he would hardly do if he undertook the business without fee or reward. The charging of a fee for this service is entirely discretionary, and a broker would presumably be influenced by the amount of work entailed and by the volume of the client's business. The question of negligence has already been referred to incidentally in dealing with the execution of the order, and it may be permissible again to return to it.

(2) *To perform the business with which he has been entrusted in a skilful manner.*

Like every ordinary agent, a broker would be liable for negligence. Thus he has been held liable in making a contract for the sale of bank shares without complying with the requirements of Leeman's Act, by which his principal was damnified (*Neilson v James* (1882), 9 Q B D 546). One of the tests to be applied to determine whether a broker has been negligent or not is: Has he acted reasonably according to the custom of other brokers or not? For instance, he would be expected to use reasonable diligence in the execution of an order, but this would not amount to an undertaking to execute it in any event, since there may not have been a market for the particular securities (*Fletcher v. Marshall* (1846), 15 M. & W. 775, but see *Fenwick v Buck* (1871), 24 L T. 274). Again, a broker would have no right to carry over a client's shares without authority (*Maxted v. Paine* (1869), L.R., 4 Ex., 81), and the client would be entitled to repudiate the transaction.

In all respects the broker must follow the ordinary course of business, for his implied mandate is not to go outside the usual course of business. Thus, if a stock is commonly sold for ready money the clients will not be bound by a sale upon credit even though the broker by giving credit may be acting with a view to benefit the client (*Wiltshire v Sims* (1808), 1 Camp 258; *Brown v. Boorman* (1842), 11 Cl & Fin. 1. *Maxsted v Morris* (1869), 21 L.T. 535).

As between the client and the broker the liability depends upon the contractual relationship. The duty of a broker on receiving an order is to use due diligence in carrying it out, and if he does not do so he will be liable to the client, even if he executes an order according to the custom of the Stock Exchange, and he will be liable to the client if he disregards the provisions of an Act of Parliament. Thus in *Neilson v James* (1882), 9 Q.B.D. 546, where a broker had been instructed to sell shares in a joint-stock bank for a shareholder, and he sold them to a jobber on the Exchange, and advised the plaintiff, the shareholder, but the bought and sold notes between the broker and the jobber omitted to state the name of the registered proprietor of the shares as required by s. 1 of Leeman's Act, by reason of which the contract was void and the bank having stopped and a winding-up order having been made before the day on which the jobber was entitled to name the person willing to be the purchaser, the contract for sale was repudiated and the plaintiff remained holder of the shares, the defendant was held liable for the amount at which the shares were sold. "It was argued on behalf of the defendant," said Brett, L J, "that the plaintiff could only recover nominal damages, because if the contract had been in due form the jobbers would not have been bound to have taken the shares, as the plaintiff could not on the account day, when the bank was being wound up, have given a valid transfer which the bank could have registered. But it seems to me that all the seller was required to do was to deliver shares on the account day, which, if the bank had remained solvent, would have entitled the purchaser to have had them transferred into his name, and that the seller does not undertake that the banking company shall be a going concern up to the account day. The plaintiff was therefore ready to do then all that he was bound to do, and if the jobber had accepted the shares on that day, they would have been bound to have paid the agreed price, and as the defendant failed to do that which would have compelled them to have taken the shares, the plaintiff lost such price by reason of such failure." The questions as to the broker's liability to indemnify the plaintiff in respect of calls, however, was left undecided. Whether the broker is liable for buying scrip which was not genuine was discussed in *Lambert v Heath* (1846), 15 M. & W. 486, and the Court of Exchequer held that the question for the jury was not whether the scrip was genuine or



not, but whether the plaintiff had got what he contracted to buy. A broker, however, would not be liable for not carrying out a contract if there were no market in the shares (*Fletcher v Marshall* (1846), 15 M. & W. 775.) A broker would be liable to a third party where he exceeded his authority. Thus in *In re National Coffee Palace Company, Ex parte Panmure* (1883), 24 Ch D 367, where a client had instructed his broker to apply for 50 shares in a company which he named, and the broker applied for shares in another company by mistake, and an allotment was made but repudiated by the client, the company having been wound up and the client's name removed from the list of contributories, the official liquidator sued the broker for damages for the misrepresentation by which the company had been damnified to the extent of £50, and recovered that sum, and was held entitled to recover it. In the course of his judgment Cotton, L J., said "What is the loss here? The liquidator cannot claim for what he has lost, nor is it a question what the creditors have lost. They are only entitled to what is ascertained to be the assets of the company. But the question is what did the company lose? If the representation as to authority had been true the client would have been fixed as the owner of the 50 shares, and the company would have been entitled to receive £50 on allotment. If so, on the footing that the client would have become the owner of 50 shares the loss must be taken to be *prima facie* the value of the 50 shares. Then what has the company to account for on the other side? What probability was there that some other person would have taken the shares? According to the evidence, out of their nominal capital of 250,000 shares, only 7,250 had been allotted before this transaction, and only 4,255 were allotted afterwards. That being so, it appears very unlikely that they would have found any other person to take up those 50 shares. Therefore the company has lost a solvent shareholder of 50 shares with no opportunity of finding another, and that loss must be the measure of damages in this case." And so where a banker in good faith sent to a corporation a transfer of corporation stock which purported to be executed by the two registered holders of the stock, though the signature of one was forged, and requested the corporation to register the stock in the name of the banker and grant a fresh certificate to him, and he transferred the stock to third parties, and the forgery having

been discovered, an action was brought against the corporation for rectification of the register and other relief, and judgment was recovered by one of the two registered holders, and the corporation incurred a large liability, it was decided that the banker was bound to indemnify the corporation, the principle of law being that "where a person invested with a statutory or common law duty of a ministerial character is called upon to exercise that duty on the request, direction, or demand of another (it does not seem to me to matter which word you use), and without any default on his own part acts in a manner which is apparently legal, but is, in fact, illegal and a breach of the duty, and thereby incurs liability to third parties, there is implied by law a contract by the person making the request to keep indemnified the person having the duty against any liability which may result from such exercise of the supposed duty. And it makes no difference that the person making the request is not aware of the invalidity in his title to make the request, or could not with reasonable diligence have discovered it" (*Sheffield Corporation v Barclay*, [1905] A.C. 392, per Lord Davey).

As to brokers exceeding their authority, see further *In re Munton, Munton v. West*, [1927] 1 Ch 262.

If a broker who has custody of his clients' securities makes no charge in the matter, he is a gratuitous bailee, and is not liable for loss by robbery. But where the deposit is not a gratuitous one he may be liable under certain circumstances. Like any ordinary agent entrusted with the custody of securities for reward he would be liable for the want of ordinary care in safeguarding them.

The Stock Exchange rules regulate the taking of cheques in exchange for securities, although bank notes may be insisted on, but not in payment of differences (see Rule 104 Appendix). The rule of law on the subject is that an agent in possession of valuable securities must not part with them for a cheque. Where an auctioneer parted with a security for a cheque which was subsequently dishonoured he was made personally liable to make the loss good (*Pape v Westacott*, [1894] 1 Q B. 272, see also *Blumberg v Life Interests Corporation*, [1897] 1 Ch 171).

The client has the right to follow money or securities which have been handed to a broker for the purpose of investment and misappropriated by him, provided he can trace the money or securities. In the former case the broker as agent is in a fiduciary position,

and the money is in effect trust money. In many cases the money may be actually trust money, as where trustees are investing in securities on behalf of their *cestui que trust*, but this makes no difference as to the right of the client to follow it, and claim either the actual money or securities bought with it in preference to the other creditors (*In re Hallett's estate, Knatchbull v. Hallett* (1880), 13 Ch D 696). But differences are not trust money, and in respect of any in the hands of a broker in the event of his default the client can only share *pro rata* with the other creditors. If, however, the securities are bearer securities any hope of recovering them would be frustrated by their having passed into the hands of a holder for value without notice (*Taylor v. Plumer* (1815), 3 M. & S. 562).

In tracing money which has been misappropriated and paid into a bank the following rules apply: If the broker withdraws money he will not be considered as drawing the first paid in, but as withdrawing his own money before the trust money, but where the moneys of two clients are paid in, the rule in *Clayton's Case* (1816), 1 Mer. 572, applies, i.e. the money withdrawn will be presumed to be that which is first paid in.

The rules of the Stock Exchange cease to apply where a transaction is concluded by the receipt of the money or the delivery of the securities to the broker. The broker then assumes a fiduciary position towards his client, and securities and money as stated elsewhere, when misappropriated by him, can be followed.

The law as to the responsibilities of partners is not strictly pertinent to this book, but it cannot be altogether neglected.

Thus, when a broker is a trustee, members of a firm should exercise caution in dealing with the trust property of which he is a trustee, otherwise they may render themselves liable to replace them when the trustee partner has misappropriated them. In *De Ribeyre v. Barclay* (1856), 23 Beav. 107, a trustee of a marriage settlement misappropriated certain Portuguese bonds. The firm had bought Brazilian bonds on account of the trust. The Court inferred from the course of dealing that the bonds were in the custody of the firm, and the partners were ordered to replace them.

A broker is not entitled to set off a debt due from the client to himself against moneys due to the client which are not due to the client in his individual capacity, where he has notice that the money

is not that of the client's. Thus, where a solicitor had had speculative dealings with a broker resulting in a debt being due from the solicitor to the broker, the broker was held not entitled to set off this debt against moneys receivable by the solicitor on behalf of clients. Four executors, it seems, had given the solicitor instructions to sell certain stock. The solicitor instructed the broker, who sold the stock and forwarded the deeds of transfer to the solicitor, who retained them, executed with receipts for the purchase-money indorsed and signed by the four executors. The broker credited the solicitor with part of the proceeds and forwarded a cheque for the balance to the executors. Since the broker was assumed to have had notice that the shares were not the solicitor's, yet although the solicitor had authority to receive the money, the broker could not discharge himself from his liability to pay otherwise than by paying the whole to the solicitor. Payment by giving credit was not sufficient, and the executors were entitled to the balance (*Pearson v. Scott* (1878), 9 Ch D. 198).

Payment by set-off between brokers and jobbers is customary on the Stock Exchange, but such a custom would not bind a client. Thus a London broker selling shares for a country broker acting for an undisclosed principal is not entitled to set-off a debt due to him from the country broker, and a claim that he is entitled to do so by custom would be bad as against the undisclosed principal unless, perhaps, it could be established that he knew the custom and agreed to be bound by it (*Blackburn v. Mason* (1893), 68 L T 510, *Crossley v. Magniac*, [1893] 1 Ch. 594). It is more than doubtful whether such a custom exists, its existence being expressly negatived in *Anderson v. Sutherland* (1897), 13 T.L.R. 163, where the jury found by their verdict that the alleged custom was no more than a practice amongst brokers.

The broker has a lien on securities in his hands belonging to his principal. The lien extends to all debts due on Stock Exchange transactions, and this lien is not affected in the case of negotiable instruments where a broker takes them in good faith without notice of the rights of third persons (*Jones v. Peppercorne* (1858), 1 John's 430). Nor is it affected where securities are deposited for a specific advance which is paid off. Thus in the case of *In re London & Globe Finance Corporation*, [1902] 2 Ch. 416, where documents relating to shares belonging to a customer were deposited with

stockbrokers against a specific advance of £15,000, and the documents were left in the hands of the brokers, and subsequent dealings which took place resulted in losses to the customer for which the customer was held liable, it was held that the broker's lien extended to the securities. The lien, however, is one which cannot actively be enforced, and is not of great value, since the broker has the right to sell securities and claim the difference.

Supposing that the broker wrongfully declines to deliver up securities belonging to his client when requested to do so, the client's remedy would be by action of detinue, which action is based upon a wrongful detention of the plaintiff's chattel by the defendant evidenced by a refusal to deliver it up on demand, the action not being one claiming redress for the money by way of damages, but demanding the return of the chattel or its value, i.e. the securities. Supposing, however, that the broker has unlawfully or negligently lost or parted with part of the securities, as he cannot get rid of his contractual liability to restore the client's property, the action will lie. The damages recoverable by the client in such a case are assessed on the basis of the selling value of the securities at the time the demand was made and the value at the time the shares were given up. Thus, in *Williams v. Peel River Land and Mineral Co., Ltd.* (1886), 55 L.T. 689, on a claim for the wrongful detention of stock which the plaintiffs had intended to sell, but were prevented from selling by the acts of the defendants, substantial damages, arising by reason of the fall in value, were recovered. But the damages must not be too remote, and they must flow naturally from the wrongful act of the defendant. Thus damages would not be recoverable where the loss prevented the payment by the client of deposits which would have entitled him to an allotment of new shares (*Williams v. Archer* (1847), 5 C.B. 318). In *Michael v. Hart*, [1901] 2 K.B. 867, the defendants, a firm of stockbrokers, in breach of a contract made with the plaintiff, who had instructed them to buy and sell shares on his behalf, sold certain shares which they had agreed to carry over, and closed their account with the plaintiff, and sought to realize certain shares which had been deposited with them by the plaintiff to realize the balance of the account alleged to be due from the plaintiff. The plaintiff sued for breach of contract, and claimed to have an account taken between them upon the footing of his being credited with the highest price

uch the stocks and shares could have realized at any time during the currency of the account Mr Justice Wills, in his judgment, said "The only matter that I have to deal with in this case is the measure of damages. The plaintiff had entered into a contract with the defendants, whereby the defendants were to purchase shares on his behalf. The defendants in pursuance of that contract had purchased various shares on the plaintiff's behalf, and the plaintiff was entitled to have those shares delivered to him on the stipulated day on payment of certain prices. The defendants further by their contract undertook that they would at any time before the stipulated day, if directed to do so by the plaintiff, sell the same shares for the plaintiff. Under those circumstances it seems to me that the plaintiff is entitled to all the advantages that would have been his if the contract had been carried over. Amongst these advantages was the right to sell the shares whenever he chose during the period over which the transactions were to run, and at different times different prices might have been realized. No doubt the plaintiff would, in fact, never have realized the best prices that ruled during that period. But I think I am right in saying that the Courts have never allowed the improbability of the plaintiff's obtaining the highest prices to be taken into consideration for the purpose of reducing the damages. The defendants are wrongdoers, and every presumption is to be made against them. In my opinion the plaintiff is entitled to the highest prices which were obtainable during the period during which he had the option of selling."

It would appear that the principle of this case would be applicable in assessing the damages occasioned by a wrongful detention of a client's securities by a broker. The wrongful misappropriation of securities is referred to elsewhere, such cases arising where the transferee took from the broker through the fraud of the broker.

#### BROKER AND JOBBER

It has been previously pointed out that it is the broker who makes the contract on behalf of his principal, or client, with the jobber. Since both broker and jobber are members of the Stock Exchange, it will be found that the contract between them is very nearly uniformly interpreted by the rules and regulations of the Domestic Exchange. Therefore although the jobber can have resort in some

circumstances, namely, on the default of the broker, to the client of the broker for whom the contract has been made, such cases are not of frequent occurrence. Where the broker is solvent, he looks to him to discharge all the obligations arising under the contract, and the broker is personally liable to the jobber.

All disputes between members not affecting the general interests of the Stock Exchange which arise out of Stock Exchange transactions, or are connected with Stock Exchange business, and including partnership disputes, must be referred to the arbitration of a member or members of the Stock Exchange ; and the Committee will not take into consideration such disputes unless arbitrators cannot be found or are unable to come to a decision. The decision of the Committee as to whether a dispute affects the general interests, and if so, how it shall be dealt with, is final. A member may not, without the consent of the Committee, attempt to enforce by law any clause arising out of such dispute. The Committee have power to intervene in cases where the principal of a member shall attempt to enforce by law a claim against another member which is not in accordance with the rules, regulations, and usages of the Stock Exchange, and will deal with such cases as the circumstances may require. It has already been mentioned that the Stock Exchange refuses to recognize in its dealings any other parties than its own members, and every bargain, therefore, whether for account of the member effecting it or for account of a principal, must be fulfilled according to the rules, regulations, and usages of the Stock Exchange. An application which has for its object the annulment of any bargain in the Stock Exchange will not be entertained by the Committee except upon a specific allegation of fraud or wilful misrepresentation, or upon *prima facie* evidence of such material mistake as in their judgment renders the case one which is fitting for their adjudication.

If a non-member makes any claim or complaint against a member the Committee, in the first place, will consider whether such claim or complaint is fitting for their adjudication, and in the event of their deciding in the affirmative, the non-member must previously to the case being heard, sign the form of Reference, No 31 in the Appendix.

The contract between broker and jobber is subject to an implied condition that unless it is strictly fulfilled according to the rules

and regulations of the Stock Exchange, the party who is not in default has his remedy open at once. He has not to wait a reasonable time such as the law in some cases presumes in the case of an ordinary contract at law. Under the buying-in and selling-out rules (see Appendix) the seller of securities is allowed a certain time, according to the nature of the security, in which to complete delivery. If he fails to do so the buyer has recourse to the process of buying-in in order to obtain immediate delivery. Likewise by the same rules a buyer has to deliver to the seller within a specified time a name, or ticket giving full particulars of the name and address of the person into whose name the shares are to be transferred. Failure to do so gives the seller the right to sell out for a name. Both procedures are dealt with more fully in Chapter X, "Buying-In and Selling Out," and Chapter XVII, "Terms that are in Use upon the Stock Exchange."

#### CLIENT AND JOBBER

As a rule actions by a jobber against the client are extremely rare, because no member is allowed to have recourse to law to enforce a claim arising out of a Stock Exchange transaction against the principal of a defaulting member except with the consent of the creditors of the defaulter, or of the Committee. Cases, therefore, in which a jobber has had recourse to a judicial tribunal are necessarily rare. Nevertheless, where the member has become a defaulter, the rules provide that the defaulter, if required, must disclose the name of his client whenever the client is indebted to him. On a case of default this, of course, would be in order to benefit the estate (Rule 48). Although the terms of the rule impliedly permit legal proceedings by the jobber where the principal is known, the Committee would no doubt be loth to sanction them. Moreover, they have power to stop them by expelling the disobedient member. In practice the Committee never give their consent where the sole result of the action would be for the jobber's benefit. The existence of the client, but not the name, is well known to the jobber when he makes the contract. He is, however, relieved from the necessity of inquiring into his financial position, for, although in law he is the principal, the jobber looks only to the broker both for payment and for the delivery of the securities which have been bought or sold by the broker. Although a matter now of purely academic interest,



there was a time when it was believed that, where a jobber had dealt with a broker and believed him to be the principal when the real principal had paid the broker at the time when the jobber still gave credit to the broker, the principal was no longer under any liability. The law, however, is clear on the point that a principal or client would not now be discharged as against the jobber by payment to his own broker, unless such payment should be held to be made in the usual course of business on the Stock Exchange. Presumably if the jobber had pursued his remedy against the broker as he would be entitled to do under the Stock Exchange rules, with knowledge of the name of the client, the client could say that he had elected to treat the broker as principal and could no longer sue him.

Whilst the policy of the Committee of the Stock Exchange is directed to prevent actions by jobbers against principals, they possess no power to prevent non-members bringing actions against members, and where the name of the jobber is known and a cause of action lies by reason of his conduct, the principal can sue him though with probably little likelihood of success. The Committee, however, offer the non-member an alternative remedy, as they are willing to adjudicate upon the merits of a dispute between a member and non-member. On a complaint being lodged against a member they first consider whether the complaint is fitting for their adjudication, and, if they decide that it is, the non-member is requested to sign a consent in writing for the case to be heard by the Committee. The Form of Consent runs as follows—

*"To the Committee for General Purposes of The Stock Exchange  
London ;*

" In the Matter of a Complaint between  
and

" GENTLEMEN,—

" I do hereby consent to refer this matter to you, and I undertake to be bound by the said reference, and to abide by and forthwith to carry into effect your Award, Resolution, or decision in this matter in the same manner as if I were a Member of The Stock Exchange and I further undertake not to institute, prosecute, or cause, or procure to be instituted, or prosecuted, or take any part in proceedings, either civil or criminal, in respect of the case submitted. And I consent that the Committee may proceed in accordance with their

ordinary rules of procedure, and I undertake to be bound by the same. Also that the Committee may proceed *ex parte* after notice, and that it shall be no objection that the Members of the Committee present vary during the inquiry, or that any of them may not have heard the whole of the evidence, and any Award or Resolution of the Committee, signed by the Chairman for the time being, shall be conclusive that the same was duly made or passed, and that the reference was conducted in accordance with the practice of the Committee. And I hereby agree that this letter shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act, 1889.

Agreement  
Stamp

The jobber, however, is not always able to be sued even where his name is known, because his liability is discharged according to Stock Exchange custom by supplying the name of a buyer or deliverer of securities in accordance with the rules (*Grissel v Bristowe* (1868), *L.R.*, 4 C P. 36, *Coles v Bristowe* (1868), 4 Ch App 3). The question of the jobber's discharge under the rules is fully discussed elsewhere

If the jobber is not discharged, the broker or the client, as the case may be, must enforce his rights promptly the broker because he must comply with the Stock Exchange rules, which prescribe the method of enforcing the rights, and the client because buying according to the custom of the market he must follow the rules of the market, and rights not enforced immediately are treated as waived, intermediaries being released

A jobber does not guarantee that the name of a purchaser supplied by him will be registered in lieu of the vendor as the holder of shares transferable by deed of delivery. If the client requires any such guarantee he must instruct his broker, who will make a special contract with the jobber at an increased rate by reason of the increased risk undertaken. The jobber is not then discharged until the purchaser's name is registered (*Cruse v Pain* (1869), *L.R.*, 4 Ch. 441).

It has been stated already that in actions against members the

Committee have power to intervene in cases where the principal of a member attempts to enforce by law a claim which is not in accordance with the rules, regulations, and usages of the Stock Exchange, and they will deal with such cases as the circumstances may require. In one instance they made a broker whose client had unsuccessfully sued a jobber pay the balance between the jobber's taxed costs and the costs due as between solicitor and client

### DETERMINATION OF THE CONTRACT

It is now necessary to consider the question of the determination of the contract. This can happen (I) by the performance or breach of the contract by the client, or by his death, bankruptcy, or insolvency, (II) by the performance of, or default or breach of, contract by the broker, or by his death, (III) by the performance of the contract by, or death, or default of, the jobber, (IV) by fraud on the part of any party to the contract. In the first case the matter is determined by law, but in the latter cases, as between broker and jobber, by the rules and regulations of the Stock Exchange

#### I. (1) *Performance and Breach by Client.*

The performance of the contract by the payment of the purchase-price of the shares bought, or by delivery of the securities, may not be an absolute performance of the contract, for liabilities may subsequently arise which are referable to the contract which require to be discharged before the contract can be said to be completely performed. These liabilities are liabilities for calls on unpaid shares, where the transferee's name is not in the register, or the securities are not able to be delivered. In such cases, although both broker and jobber are released from liability, it may happen that principals or vendors and purchasers have rights accruing. In general, however, the delivery of the securities and payment of the price completes the contract.

Where a transaction is carried out on the terms that the plaintiff shall deposit a sum to cover the difference between the buying price and the current market price of shares, the broker has the right when the cover is exhausted to close the transaction. If he does not close it, however, when the cover is exhausted and the price of the shares rises, he cannot then close the transaction but must wait until the cover is again exhausted. (See *Hogan v Shaw* (1885),

5 T L R 613) In *Surman v Oxenford & Co* (1916), 33 T L R 78, a distinction was drawn between the cover system and an agreement to give a certain security with a fixed cutting limit. See further as to closing the account on exhaustion of cover, *Davis & Co v. Howard*, at page 159, and other cases there cited.

(2) *Death of the Client.*

In law the death of a principal acts as a revocation of the authority, and it will therefore be found that a broker as agent for a principal on the death of his client can no longer continue or carry-over his stocks or shares.

Where he has with his own money purchased securities for a principal, he is justified in re-selling them directly on the death of his client. This was illustrated in the case of *Lacey v. Hill, Scrimgeour's claim* (1873), 8 Ch App. 921, where Sir G. Mellish said in reference to a claim by stockbrokers against the estate of their client where the stockbrokers had purchased the shares with their own money, and had sold claiming against the estate of the deceased. "I think whether we look at the claim strictly according to the rules of the Stock Exchange or look at it according to law, in either view the claim is good. If we strictly apply the rules of the Stock Exchange, as explained in the judgment of Mr. Justice Blackburn in *Duncan v. Hill* (1873), L.R., 8 Ex 242, 246, and for a moment leave out of sight the fact that the stock had been actually paid for and delivered and assume that the state of things was exactly the same as if the whole remained in contract, yet even then, in my opinion, the rules of the Stock Exchange are very reasonable and would apply. Those rules are, that when a broker making a contract in his own name has made for his principal a contract by way of speculation whether certain stocks will during the next fortnight rise or fall, and the principal dies or becomes bankrupt, or falls into such a state of insolvency that it is manifest the brokers cannot depend on him to protect them against any loss that may occur, then the brokers may at once terminate the transaction, so as to make the profit or loss, whichever it is, depend upon the state of things on that day, and not to run the risk of any further fall in the Market. That appears to me a most reasonable rule." The Stock Exchange custom which Sir George Mellish referred to in this passage of his judgment was given in evidence at the trial, and was as follows "That with very

few exceptions all bargains and transactions on the Stock Exchange are made for certain periodical days called 'settling days' That when a broker, on the instructions of his principal, agrees to buy, or actually buys, a certain amount of stock or shares, the stock or shares so bought are in no wise identified as the stock or shares so ordered to be purchased, but remain by the practice of the Stock Exchange the property of the brokers and at their disposition, not at that of the principal. When the transaction as between the brokers and the principal is completed by payment by the principal by delivery of the stock, the particular stock becomes the principal's property, and is treated and considered as the subject of the bargains, and the brokers, according to the practice, are thereupon bound to hold the particular stock or shares at the disposal of the principal. That when it becomes notorious that a principal is, by reason of bankruptcy or death, unable to receive and pay for, or to deliver, the stocks or shares which he has ordered to be purchased or sold, and that no one is authorized to deal with the account, or able and willing to take the responsibility thereof, then and in such case it is usual for the broker, who is responsible to the members of the Stock Exchange for the transactions entered into for his principal, to proceed at the earliest practicable period to close the account of such principal by selling on the best terms amounts of all stocks or shares equivalent to those he may have contracted to take, and by purchasing amounts of all stocks or shares equivalent to those he may have contracted to deliver." See also *Ellis v Pond*, [1898] 1 Q.B. 426. In *Lacey v. Hill* (1874), L.R., 18 Eq. 182, at p. 190, Jessel, M.R., said "By the rules and usages of the Stock Exchange, if the principal dies or becomes insolvent during the currency of the account, the broker has a right to sell immediately." Notwithstanding the dicta of these eminent judges in the above-cited cases, it is not clear whether brokers have a right to close a client's account open in the market on the ground of insolvency. For, in *Lacey v. Hill*, *Scrimgeour's case* (*supra*, p. 157), the brokers had probably borrowed the money from their bankers, and were takers in of the stock, and Lord Justice James decided the case altogether apart from the above-quoted custom, and both judges were of opinion that if the stocks had risen after the sale, the brokers would have been liable to make good the loss incurred. There is no doubt, however, as to the right of a broker to close the

account at the end of the settlement, on the death of a client, for he has no power to carry it over (*Phillips v. Jones* (1888), 4 T.L.R. 401). In *In re Overweg, Haas v. Durant*, [1900] 1 Ch 209, a stock-broker had a continuation account with a client. The client died on the 24th March, 1898, and the next day the brokers were informed of the fact. After endeavouring but failing to obtain instructions from the client's representative, on the 28th March they carried-over the account to the 29th April. The brokers, learning that a meeting of their deceased client's creditors had been called on the ground of the estate being insufficient to meet liabilities, sold the stocks and shares, which were part of his account, but not Canadian bonds, which were unable to be sold for want of a purchaser till April 29th. There being a debt due to the brokers they claimed against the estate. Byrne, J., in a considered judgment, said: "The broker could have closed the account on March 28th by selling in the market, relying upon his right to indemnity against the estate of his principal in respect of any loss, but he preferred to sell in a different way. I have not to consider the question whether or not the legal personal representative could have elected to adopt the continuations actually effected, and the ultimate sale at a later date had it been his interest to do so, inasmuch as he elects to stand by the contract for sale entered into on March 28th, 1898."

(3) *Bankruptcy or Insolvency of the Client.*

It is no doubt clear that a broker is entitled to close his client's account if a balance of differences in the broker's favour has not been paid him by his principal upon the pay-day of the current settlement, provided that the broker has given his principal notice of the amount of the balance due before the pay-day, and the broker has not been provided with funds or available collateral security sufficient to cover the amount of the balance, even though the client has instructed the broker to carry-over the stock to the next settlement (*Davis & Co. v. Howard* (1890), 24 Q B.D. 691). Evidence of Stock Exchange usage was given, and commenting on it Mr Justice Charles said "It is said that the usage thus proved is unreasonable. Now, at first sight, no doubt it appears unreasonable that it should be within the province of a stockbroker to close all the transactions of his principal because two days after the broker has made contracts on his principal's behalf on the Stock Exchange the principal fails to supply the broker with, it may be, a very small

balance due on the previous account, but on closer examination, and having regard to the peculiar nature of the business which a stockbroker does for his principal, I can see nothing unreasonable in this usage. It is admittedly reasonable where the principal is insolvent, or, if not insolvent, is in circumstances which give good reason for thinking that it may be difficult for him to meet his engagements. Its root and foundation is the peculiar position of the broker who has to pay all his principal's differences out of his own pocket before 3 o'clock on pay-day, and who, if he does not do this by 11 o'clock on the following morning, is liable to be declared a defaulter on the Stock Exchange. In such circumstances it is, in my opinion, very reasonable that the broker should have this right to protect himself. It was argued that the broker ought not to be allowed to close the account unless he were in a position to prove either in a domestic tribunal or in a court of justice, if the matter should come before a court of justice, the actual or virtual insolvency of his principal at the time when the account was closed. I think this would throw upon the broker an intolerable burden, and that the fact of the money of the principal not being forthcoming in time is, and ought to be, sufficient to entitle the broker to protect himself by taking the course which the plaintiffs have taken here. I also think that to decide otherwise would not be in accordance with existing authority." See also *Druce v. Levy* (1891), 7 T.L.R. 259, and *Forget v. Baxter*, [1900] A.C. 467, P.C. The broker, however, may, if he chooses, close a part of the client's account and keep open the remainder, the decision to the contrary effect in *Samuel v. Rowe* (1892), 8 T.L.R. 488, was overruled by *Hilton and others v. Morton* (*Financial Times*, 3rd July, 1908). It was held in *Cullum v. Hodges* (1901), 18 T.L.R. 6, C.A., that where a broker had informed his client that he would be unable to carry-over his transactions, and the client replied stating that he could not find the money, the broker was justified in closing some of the transactions and leaving others open in his discretion as he was able to.

In *Ellis & Co's Trustee v. Dixon-Johnson*, [1925] A.C. 489, a firm of stockbrokers wrongfully sold certain shares of their client's which had been deposited with them as security, and the clients (defendants in the action) did not discover this sale until after the bankruptcy of the firm. The trustee in bankruptcy rendered the

defendant a final account in respect of the shares, showing a balance due from the defendant. In an action to recover this balance it was held that as the brokers were not in a position to hand over the security, they could not have maintained an action for the debt, and that the trustee in bankruptcy was in no better position.

Another question which arises after a sale by a broker of his client's securities has been the subject of judicial decision, and that is whether the broker has a right to re-purchase such securities at the same price on his own account as part of the same transaction. The first case on the point was *Walter v. King* (1897), 13 T L R. 270, C.A. There the brokers had bought and paid for a large number of shares, and on the defendant failing at the proper time to find the purchase-money, the brokers went to a jobber and had a fair price fixed for them, and went through the form of selling and buying back the shares. It was contended that the brokers had no right to buy back the shares, and that their only proper course was to sell the shares in the market and claim the difference between the bought and sold price. The Court of Appeal, however, approved of the course adopted by the brokers, the price being reasonable, and there apparently being an impossibility of selling the shares. In *Macoun v. Erskine*, [1901] 2 K.B. 493, in consequence of the plaintiff not supplying the defendants, who were brokers, with funds, the defendants were in a position to close the accounts. They did so by getting a jobber to make a price in the shares, and a sale took place with a re-purchase by the brokers for the next account. It was contended by the plaintiff that the sale to the jobbers was a mere form, and that the defendants were acting in a fiduciary capacity, and were not entitled to re-purchase the shares on their own account. The transaction was upheld. In the course of his judgment Lord Justice Vaughan Williams said (page 502): "Though I have as a lawyer expressed an opinion that it would be better that a broker closing a customer's account should do so by a clean sale with no concomitant bargain with the jobber on his own account, yet if the general practice of the Stock Exchange were to the contrary, I should not say that my judgment was likely to be better than that of practical men engaged in these transactions, whose interest it is that their system should accord with the interests of their customers as well as their own interests. But I do not understand from the evidence in this case that the



practice of closing accounts in the manner in which the account was closed in the present case is general on the Stock Exchange." In *Erskine, Oxenford & Co. v Sachs and Another*, [1901] 2 K. B. 504, the brokers, in default of their client providing the money for the purpose of closing the account, went into the market and sold a like amount of shares to a jobber, and as part of the same transaction re-purchased the shares from him on their own account. By reason of the sale and re-purchase being effected in one transaction the brokers were enabled to re-purchase the shares at a price which was lower than they would otherwise have had to pay. They also charged their client commission on the sale of the shares to the jobbers. It was decided that the brokers having acted in a fiduciary capacity in the sale of the shares, and having, by reason of that sale and the re-purchase being effected as one transaction, obtained a profit for themselves, they were bound to account for that profit to their principals, the clients.

It may be observed that the result of these cases is that the broker may buy back shares that he has sold provided that he does so at an honest price, and as an independent transaction. The client has no reason to complain unless the broker has made a profit for himself out of the transaction or the shares were not sold at the market price (*Christoforides v Terry*, [1924] A C 566 at page 574). Yet if the selling for his client and the buying back for himself are by one and the same transaction, and he thereby makes a profit, he must account for that profit to his client, and is also entitled to claim commission. In such a case the client can elect either to repudiate the contract or to adopt the contract and claim the profit. Though the broker has the right to close the account of a client in default, he must not do so wrongfully. If he does so he loses his right to indemnity. Thus, in *Ellis v Pond*, [1898] 1 Q. B. 426, a broker bought stock for a client, some of which he paid for and some of which he kept open with an agreement not to sell before a particular date. Before the date agreed upon he sold the whole at a loss, though the client was not in default, but because the market was falling. Before the agreed date the stocks rose, although the transaction still showed a loss on the original contract price. Some of the stock had been paid for by the broker, but some of it was open on the market. In respect of the stock paid for by the broker he was held entitled to recover what he had paid for it subject to

a counterclaim by the client for damage for selling before the agreed time, but he was held not entitled to an indemnity in respect of the shares which had been open in the market, since by his own wrongful sale he had created the differences for which he was suing his client. See also *Murray v. Hewitt* (1886), 2 T.L.R. 872. Where stock is bought for a client and is open in the market the contract is that if the broker will purchase stock for him, the principal will upon the settling day take up and pay for the stock so purchased by the broker, and that if he does not the principal will indemnify the broker from the claim of the jobber. Therefore, if the broker wrongfully sells before his time he cannot claim indemnity. See also *Bowlby v Bell* (1846), 3 C.B. 284. In *Michael v. Hart & Co.*, [1902] 1 K.B. 488, brokers closed a client's account before the settling day without instructions, the jury finding against the brokers on their contention that an agreement to carry-over had not been unconditional. The stocks were falling when the plaintiff's account was closed. They rose again shortly afterwards, and were higher at the end of the settlement, having been still higher in the interval. At the trial the judge held that the damages ought to be assessed at the highest prices which the stocks had touched between the closing account and the end of the May settlement. On appeal, Collins, M.R., said. "It is argued on behalf of the defendants, in the first place, that the closing of the plaintiff's account by the defendants was a final breach of the defendants' contract with the plaintiff. It is said that, inasmuch as that closing of the account was effected by releasing the jobbers with whom the defendants had carried over the stocks from their contracts, that for some reason or other affected the right of the client in such wise that he was bound to treat that repudiation of their contract by the defendants as a final breach, and the only breach of which he could take advantage; in other words, it is said that there was a breach of such a nature, having regard to the relations between stockbroker and client, that there was no option on the part of the plaintiff afterwards to insist on the contract, and wait till the date fixed for performance, and then measure his damages with reference to that date, but he was bound to treat the contract as rescinded upon the closing of his account, and measure his damages with reference to the date at which it was closed. I cannot assent to this argument."

The point as to whether the damages were to be assessed at the price of the stocks reached at the settlement or at the highest point they reached between the day of sale and the day of settlement was left open. With reference to a defaulting client, a member is forbidden to deal with such a person when he is aware that he is in default with his broker until he has made a satisfactory arrangement with his creditors.

II *The performance of the contract by the broker* releases him from further liability, but the delivery of forged securities, since it would not be a sufficient performance of the seller's contract to deliver, would not release the broker who acted for the seller. In *Westropp v. Solomon* (1849), 8 C.B. 345, bonds had been delivered by the seller which were forged, but the fact of the forgery was unknown to the seller. The Committee of the Stock Exchange, learning that there were a number of these forged bonds which were being dealt in, passed a resolution subsequent to the date of the contract compelling all brokers who had sold them to pay the purchasers a price which was considerably higher than that at which the defendant Solomon had sold. The broker Westropp paid, and claimed to be indemnified. He, however, failed, since the resolution passed subsequently to the date of the contract could not affect a transaction carried out before, and at the most the principal was only bound to repay the amount that he had received by means of the sale. The responsibility for the genuineness of bearer securities not only extends to the delivering broker, but in the event of his death, failure, or retirement, attaches to each member in succession through whose hands the ticket for the securities may have passed, and a somewhat similar rule attaches to the broker delivering registered securities. This case which seems to conflict with other decisions is distinguishable on the ground that no rule of the Stock Exchange making the seller in effect warrant the genuineness of the documents was before the Court. In view of Rules 120 and 134 it is doubtful if this decision would now be followed.

On the death of the broker his clerks may, by permission of the Committee, enter the house to adjust unsettled accounts. (Rule 71 (2).)

The default of the broker arising from bankruptcy or insolvency, by the Stock Exchange rules, causes the assets of the defaulter to pass to the official assignee. The client's position, however, is also

affected by what has been termed this domestic bankruptcy. The position is fully discussed in the succeeding chapter.

III. *The death, insolvency or default of the jobber* entails somewhat similar consequences to those that occur on the death, insolvency, or default of the broker. The distinction, however, must be observed that the broker is an agent, and that the jobber is a principal, being the principal with whom the broker made the contract for the client.

Apart from the non-payment of the differences arising on the sale of stocks and shares, a breach of a special contract might arise as where the client agrees to provide cover for the broker in respect of dealings on the Exchange and fails to do so. Unless expressly stipulated that the failure to provide cover at a definite day is to operate as an instruction to close open bargains at once, it would be unwise on the part of the broker to close an account for a failure to provide cover on a definite day. It certainly would be prudent to wait till the end of the account, when the client could be compelled to elect as to whether he would find the cover, for the broker could not be compelled to carry-over and would then be justified in closing the account.

IV. *Fraud*. The fact that one of the parties to the contract has been induced to enter into it by fraud or a misrepresentation, which may be innocently made, will entitle the party to a rescission of the contract provided that it is repudiated within a reasonable time. A contract, however, is voidable, and not void on these grounds, for the party who is aggrieved can elect to be bound by its terms, and if it is not repudiated within a reasonable time, especially where the interests of innocent parties become involved, the contract will stand, the party aggrieved being left to his common law rights, namely, to an action for deceit.

In *Loring v Davis* (1886), 32 *Ch D* 625, the plaintiff had sold on the Stock Exchange through her brokers thirty shares in the Oriental Bank Corporation to jobbers for £193 17s. 6d. The defendant Davis had instructed his brokers, Scrutton & Son, to purchase shares in this Corporation, which Scrutton & Son had accordingly done, sending a bought note to the defendant, who accepted and retained it. The bank stopping payment, the defendant formally repudiated the contract, through his solicitors, on the ground that it was in contravention of Leeman's Act, requesting his brokers

not to give his name to the selling broker or jobber, or to act under the contract. At the same time the defendant informed his brokers, and told them, whatever position he might have to assume, that he considered himself bound to support them. The brokers sent in the defendant's name on the buyer's ticket as the purchaser of ten shares, and shortly afterwards a transfer to Davis as transferee of the ten shares described by their numbers was sent with the share certificates and the buyer's ticket. In return for the transfer the defendant's brokers gave the plaintiff's brokers a cheque for the price of the ten shares, and forwarded the transfer to Davis for his execution, but Davis refused to execute it on the ground that it contravened Leeman's Act, and returned the transfer unexecuted to his brokers, in whose possession it remained. The defendant Davis paid his brokers, but no intimation that the defendant had repudiated the bargain was sent to the plaintiff till seven days at the earliest after the payment by the defendant to his brokers. The Court decided that, although Davis had not executed the transfer, he was liable, for he had not definitely repudiated the authority given to his brokers. ~~As to a repudiation of a contract~~ on the ground of fraudulent misrepresentation where the rights of innocent parties had intervened, see *Tennant v The City of Glasgow Bank and Liquidators* (1879), 4 App. Cas. 615.

## CHAPTER VIII

### DEFAULTERS

A MEMBER who is unable to fulfil his engagements on the Stock Exchange may be publicly declared a defaulter by direction of the Chairman, Deputy Chairman, or any two members of the Committee, and he thereby ceases to be a member. This public declaration of default is known as hammering, and takes place in the Stock Exchange. Two of the waiters, when the announcement has to be made, stand in their boxes and strike three blows with a wooden mallet to arrest attention, and then standing up take off their hats and announce. "Gentlemen,—X and Y, trading as B and Company, beg to inform the House that they cannot comply with their bargains"; or "Gentlemen,—X and Y, trading as B and Company, have not complied with their bargains."

The effect of the declaration is that the member ceases thereupon to be a member of the Stock Exchange, and by Rule 172 he must further execute and deliver to the Official Assignee the form in Appendix 37. A like result, however, occurs when a member becomes bankrupt or is proved to be insolvent, or when a Receiving Order is made against him, or when he fails to pay the fees due to the trustees and managers, although he may not at the time be a defaulter on the Stock Exchange, on a resolution of the Committee to that effect. A request for a declaration must be handed to the Secretary not later than a quarter to three o'clock or a quarter to twelve on Saturday, and the declaration must be forthwith announced to the Stock Exchange, but a declaration shall not be announced before half-past ten o'clock. When a member gives private intimation to his creditors of his inability to fulfil his engagements, his creditors are not allowed to make any compromise with the defaulter, but must immediately communicate with the Chairman, Deputy-Chairman, or two members of the Committee, so that the member in default may be immediately declared. In case the Committee obtain knowledge of any private failure, the rule requires that the name of the defaulter must be publicly declared. Whilst this liability awaits a member who makes or attempts to make a compromise privately with his

creditors, a liability to refund any money or securities received from such defaulter also attaches to a member conniving at a private failure by accepting less than the full amount of his debt, provided that such defaulter is declared within two years from the time of such compromise. In such a case the property so refunded is applied to liquidate the claims of subsequent creditors. Any arrangement for settlement of claims in lieu of a *bona fide* payment on the day when such claims become due is considered as a compromise, subject, of course, to the defaulter being declared within two years from the time of such arrangement. The Committee may order a member who fails to meet an obligation to a member or non-member, arising out of a Stock Exchange transaction, to be declared a defaulter.

The estate having been vested by deed of arrangement in the hands of the Official Assignee he proceeds to perform his duty. That is, to obtain from a defaulter his original books of account and a statement of the sums owing to and by him, to attend meetings of creditors and to summon the defaulter before such meetings, to enter into a strict examination of every account; to investigate and report to the Committee forthwith any bargains made at unfair prices and to manage the estate in conformity with the rules, regulations, and usages of the Stock Exchange. In the event of a default the Regulations in Appendix 36 apply, i.e. that as soon after this declaration as possible all members having accounts open with the defaulter should furnish the Official Assignee with two statements showing respectively (a) a copy of the Jobber's Ledger for the current account, (b) all bargains which have been closed at "Hammer Prices". If there are any bargains for future dates these must be set out on separate sheets for each account, (c) in the case of a ticket issued by a defaulter for securities which have not been paid for, a contra entry should be made and the original bargain closed at the "Hammer Price". This is the price or prices which the Official Assignee is required to publicly fix before the declaration of default is made, being the prices which are current in the market immediately before the declaration, at which prices all members having accounts open with the defaulter must close their transactions by buying of or selling to him such securities as he may have contracted to take or deliver, the differences arising from the defaulter's transactions being paid to or claimed from the

Official Assignee    Unexpired options must be similarly closed at a market valuation. In the event of dispute as to the prices or valuations they must be fixed by two members of the Committee. Any objection must be lodged with the Official Assignee in writing within two business days of the time when the list was posted in the Stock Exchange.

Differences due to or from a defaulter on the current account are to be set off against those due from or to the Official Assignee on the account closed at the Hammer. Such set-off is not to be made until the differences are payable. A creditor for " Hammer Price " differences, who has paid a difference on the current account, is entitled to the return of such difference, if this claim is equal to or greater than the amount paid and ranks upon the estate for the balance. If less he is entitled to the return of the amount claimed (Appendix 36, Clause 2 )

A member, who has received a difference on an account before the regular day for settling the same, or who has received a consideration for any prospective advantage, whether by a direct payment of money or by the purchase or sale of securities at a price either above or below the market price at the time the bargain was contracted or by any other means before the day for settling the transaction for which the consideration was received, must in case of the failure of the member from whom he received such difference or consideration refund the same for the general benefit of the creditors, and any member who has under the circumstances above stated paid or given such difference or consideration must again pay the same to the creditors, so that in each case all persons may stand in the same situation with respect to the creditors as if no such prior settlement or other arrangement had taken place.

These and some subsequent rules, which will be found hereafter discussed, deal with the liabilities of creditors and rights of creditors in the *cessio bonorum*, which takes place on the default of a member of the Stock Exchange. It may now be convenient to explain the nature of this *cessio bonorum*. On the default of a member, officials, called the Official Assignees, collect and pay the assets of the defaulter to the credit of their joint account at a bank and distribute them as soon as possible. These Official Assignees, two in number, are annually appointed by the Committee to act as Official Assignees, and their duty is defined as comprising the obtaining from a defaulter



of his original books of account and a statement of the sums owing to and by him, the attending of meetings of creditors, the summoning of the defaulter before meetings, the entering into a strict examination of every account, the investigation of any bargains suspected to have been effected at unfair prices, and the management of the estate in conformity with the regulations and usages of the Stock Exchange. They are required to give security amounting to £1,000 from two or more members of the Stock Exchange, and the sureties are required, in the event of any default or misappropriation by an Assignee of funds or property entrusted to his care, or in the case of any other act of dishonesty on his part, to pay under direction of the Committee such sum as they may have guaranteed. These rules effect an assignment of the debtor's property in the Stock Exchange, but there is nothing to prevent the assignment being declared void by reason either of one of the creditors or the defaulter taking proceedings in bankruptcy.

The *cessio bonorum* does not operate as an accord and satisfaction of a creditor's debt, and after the assets have been distributed by the Official Assignee there is nothing to prevent a creditor suing for the balance of a debt due from the defaulter to him. A Stock Exchange creditor must obtain, however, when desirous of enforcing his claim by law, the consent of the creditors of the defaulter or of the Committee.

Thus in *Mendelssohn v. Ratcliff*, [1904] A.C., 456, where a consent had been obtained to further proceedings, the facts were that the appellant, who was a broker on the Stock Exchange, owed on May 15th, the pay-day of the mid-May settlement of 1901, £986 for differences in the purchase and sale of stocks. On the next day, having been declared a defaulter in the Stock Exchange, he handed his books and assets to the Official Assignee, who dealt with the estate. The respondents completed with the appellant's principals all such transactions as were open, and received from them the sum of £281. This sum they handed over to the Official Assignee; subsequently they brought an action and recovered a judgment for the two sums of £986 and £281 less a dividend which they had recovered from the Official Assignee of the Stock Exchange. A Receiving Order in Bankruptcy was subsequently made against the broker.

The appellant contended that the Stock Exchange proceedings

in liquidation amounted to either an accord and satisfaction of the respondent's claim, or an agreement not to sue, or at the very least to a suspension of the creditor's rights at law. This contention the House of Lords declined to accede to. The rules bearing on the subject did not constitute an agreement not to sue; the second of the two sums was a sum payable by the defendant to the plaintiff under a special contract based upon the rules of the Stock Exchange.

As previously pointed out, a Stock Exchange creditor cannot attempt to enforce by law a claim arising out of a Stock Exchange transaction against a defaulter or against the principal of a defaulter, without the consent of the creditors of the defaulter, or of the Committee, but this rule in no way binds outside creditors who are entitled to enforce their rights in the usual way. It will be necessary hereafter to consider cases where the Official Receiver has come into conflict with the Official Assignee, through proceedings at law being taken by outside creditors. The amount of the assets and differences which the Official Assignee receives from the defaulter's debtors or from members of the Stock Exchange is collected and paid by him into such bank and in such names as the Committee may from time to time direct, and this must be distributed as soon as possible.

When a closing takes place before carrying-over day the closing is for the then account, but if on or after the carrying over day, for the next account

The operation of the closing rule works as follows. A and B have bargains open with the defaulter. A has sold, say, 100 shares at £1 5s, and B has sold 150 shares at £2 10s to the defaulter before the default. The hammer price is £1 and £2 respectively. A buys back the 100 shares at £1 and B the 150 at £2. In each case A and B are creditors to the extent of 10s per share, or £50 and £75 respectively, and are entitled to prove for a dividend against the defaulter's estate. Supposing, however, that A and B have sold the shares at the same price as in the former instance, but that the hammer price is £1 15s and £2 15s respectively, then A and B, instead of being creditors, are debtors to the Official Assignee in the amount of the difference between the sale price and the hammer price, and this difference they have to pay in full. The first sale having proved inoperative, the loss to A and B is the difference between the price

of the original sale and the hammer price, less the dividends that may be received from the estate. The actual loss, however, is not limited to this, for there may be a further loss on re-selling the shares on the market at a price below the hammer price, which, of course, the broker cannot claim against the estate. On the other hand, he may complete his sale at a higher price than the one fixed by the Official Assignee, which would then lessen his loss on the default.

The above instances refer to sales in the market, but a converse case where A and B are buyers would in each case result in A and B closing their bargain at the hammer price and proving, where a loss accrued, against the defaulter's estate.

The differences that have been referred to are not assets of the defaulter. They are collected from members of the Stock Exchange. In *In re Plumbly, Ex parte Grant* (1880), *L R*, 13 *Ch D* 667, 673 the nature of these differences is explained. "When a member is unable to meet his engagements, he gives notice to that effect to the Secretary of the Committee, and, the previous authority of the Chairman or the Deputy-Chairman or of any two members of the Committee having been obtained, he is thereupon declared a defaulter, and an officer of the Stock Exchange, called the Official Assignee, at once ascertains and declares the actual market prices, ruling immediately before the default, of the several securities in which the defaulter has transactions open. By the rules and practice of the Stock Exchange members having bargains open in stocks and shares, which the defaulter has contracted either to take or deliver, but which contracts he breaks by his default, pay to the Official Assignee of the Stock Exchange the difference in value of the stock or shares in which they have dealt with the defaulter as determined by the prices fixed by the Official Assignee at the time of default, when the change in price of any of such stocks or shares is against such members; and, on the other hand, become entitled to claim against the fund so created in the hands of the Official Assignee for any such differences when in their favour. The defaulter does not by reason of his default acquire under the rules of the Stock Exchange any right or claim to differences or damages against the members with whom he has dealt in respect of the contracts broken by him by his default, nor to the moneys payable as differences to the Official Assignee of the Stock Exchange under the rules of the Stock Exchange. The object of

the rules is to adjust the accounts of the members as between themselves, dropping the defaulter by reason of his default out of each series of bargains in which he may have been one of the successive contracting parties. If, as frequently occurs, the principal of a defaulting broker goes, on or before the account day, to a member who has had a transaction open with the defaulter at the time of his default, and asks to complete the bargain, the member is bound to complete it; but still, by the rules, he is bound to account for and pay to the Official Assignee any amount received by him in excess of the price fixed by the Official Assignee at the time of the default for the stock, the subject of the bargain

“Had Mr. Plumbly not become a defaulter, and not become a liquidating debtor, and had all the contracts matured and been duly performed by him, none of the differences created and received by the Official Assignee of the Stock Exchange in consequence of his default could have found their way into Mr. Plumbly's hands or possession. If the contracts had matured and been performed in the usual way by the payment or receipt of differences, these differences would not have been the same in amount as the differences which became payable to or claimable against the Official Assignee in respect of the contract by reason of the default as hereinbefore stated. In payment of differences bank notes or cash do not pass, and cannot be demanded. All payments on account of differences must be by crossed cheques on a Clearing House banker, and the whole of the differences to which any member of the Stock Exchange becomes entitled, and which he is liable to pay on each account day, must all pass through the Clearing House together, and he never receives, and by the rules of the Stock Exchange never can receive, more than the balance, if in his favour, between the differences he has to receive and to pay as one of the various series of dealers with whom he has had transactions, and then only if this ultimate balance of all his transactions prove to be in his favour, that is, if he has made a profit on the account; otherwise the general balance of all his dealings goes to his debit through the operations of the banker's clearing. The credit differences of each member of the Stock Exchange are thus, and are intended to be, directly hypothecated for the payment of his debit difference. This practice, established by the rules and by invariable custom, secures all the differences payable by each member on the moneys receivable by him, and

protects the vast amounts of the crossed cheques drawn on bankers on every account day by cheques of nearly similar amounts payable and receivable by the same members on the same day.

“It may happen, and does occasionally happen, in cases of default on the Stock Exchange, that the amount of credit differences payable to the Official Assignee is more than sufficient to pay the total amount of the debit differences claimable from the Official Assignee, as, for instance, if a member fails to receive in due course remittances from principals or correspondents, or if members with whom he may have dealt, or from whom he may have to receive moneys, themselves make default. In any such case, where the amount of the credit differences exceeds the amount of the debit differences, the balance is applicable for or towards discharge of any claims other than for differences. Except in such cases as those last mentioned, the balance of a defaulter's dealing on the particular account is invariably against him, inasmuch as it is owing to the fact that he finds that, as the result of all his transactions for the particular account day, the balance will be against him, that he announces his default, and there can be no moneys which could ever be receivable by the defaulter himself, or anyone on his behalf, in respect of his open contracts, even had such default not occurred”

The custom and rules set out were applied in a case where a stock-jobber was declared a defaulter, and on the same day filed a petition in bankruptcy, and a receiver was appointed. The receiver gave notice to members of the Stock Exchange, from whom differences were due, to pay the same due from them under the rules to him, on the ground that they were part of the debtor's estate, and obtained an injunction restraining the Official Assignee from receiving or collecting any of the assets of the debtor, including debts and balances due from members of the Stock Exchange, until after the appointment of a trustee of the debtor's estate. By the order for the injunction it was also determined that the amounts collected by the Official Assignee and all moneys received, or to be received, by the receiver from members of the Stock Exchange should be forthwith paid into Court to abide the decision of the question between the parties. The question then was, could the receiver claim the differences as assets of the debtor or not. The Court said that he could not, since the fund was an artificial one which never belonged to the bankrupt, but had been created by the rules of the Stock Exchange

for a particular purpose, and only had an existence for the purpose of being dealt with in a particular way.

Such being the nature of differences, it is obvious that they are not assets that can be touched by outside creditors, and therefore there is the very greatest distinction between differences and assets, which are not differences. This is made clear in *Tomkins v. Saffery* (1877), 3 App. Cas. 213, where a defaulter called his Stock Exchange creditors together, and informed them that he had no debts outside the Stock Exchange, and the Stock Exchange creditors agreed to accept a composition, the debtor to provide for a part of it by handing the Official Assignee a cheque for £5,000, then standing to his credit at the Bank of England. The Official Assignee obtained the money and apportioned it amongst the Stock Exchange creditors. The debtor subsequently confessed to owing large amounts to outside creditors, and was declared bankrupt. The Trustee in Bankruptcy claimed the £5,000, and it was held that he was entitled to claim it, since the payment to the Stock Exchange creditors was an undue preference, the *cessio bonorum* constituting an act of bankruptcy, and the money being paid with a view of giving the Stock Exchange creditors a preference.

Therefore, where the Official Assignee has received differences only, they cannot be touched by the Official Receiver or Trustee in Bankruptcy; but it is otherwise with assets which are not differences, for then, if bankruptcy supervenes within three months, the Official Assignee will be responsible for them to the Trustee in Bankruptcy. The term "assets" in the Stock Exchange rule, which empowers the Official Assignee to collect the assets of the defaulter, means all the assets. Therefore, when the rule is brought into operation the effect is to create an assignment of the assets of the defaulter to the Official Assignee.

Accordingly, when a member of the Stock Exchange was indebted to a firm in the sum of £187 10s, and he became a defaulter and sold shares which he held on behalf of the Official Assignee to the value of £315 15s. to the defendants, and the defendants paid £128 5s. and claimed to set off the balance of £187 10s. as a debt due from the defaulter, the defendants well knowing the defaulter's position and that of the plaintiff, it was held that there was no right of set-off, since the Official Assignee was in the position of an equitable assignee of all the assets (*Richardson v. Stormont*,

*Todd & Co.*, [1900] 1 Q.B. 701). Since the assignment is an assignment of all the assets of a defaulter, it binds not only Stock Exchange creditors but all creditors. Therefore, where an outside creditor had obtained judgment against a defaulter and sought to obtain a charging order against a sum of money which had been recovered by the Official Assignee in the course of his duty in collecting the assets of the defaulter by an action brought in the name of the defaulter, it was held that no order could be made, the defaulter's assets being equitably assigned to the Official Assignee (*Lomas v. Graves & Co.*, [1904] 2 K.B. 557).

In the course of his judgment, Stirling, L.J., said "It appears that in July, 1903, the defendants' firm were declared defaulters on the Stock Exchange, the effect being that the rule of the Stock Exchange came into operation by which it is made the duty of the Official Assignee to collect the assets of a defaulter and distribute them among his creditors on the Stock Exchange. The meaning of this rule has been the subject of consideration by the Courts in several cases, and particularly by the House of Lords in *Tomkins v. Saffery*, and the Court of Appeal in *Richardson v. Stormont, Todd & Co.* The interpretation placed upon the rule in these cases appears to be that the word 'assets' therein means all the assets of the defaulters, and that these are made applicable by the Official Assignee for the benefit of the defaulter's creditors on the Stock Exchange. This provision of the rule is one of the terms upon which the member agrees to become, and is admitted to be, a member of the Stock Exchange; and, so long as it does not conflict with the law of the land, it is valid. In certain events it may conflict with that law; for it may bring about what has been called a *cessio bonorum*, that is to say, an assignment of all the goods of the defaulter to the Official Assignee of the Stock Exchange, in trust for a particular class of creditors, and in the case of *Tomkins v. Saffery*, in which bankruptcy proceedings were subsequently taken against the defaulter, it was held that such an assignment amounted to an undue preference of creditors, and was bad as being an act of bankruptcy. No steps have been taken in the present case to procure an adjudication of bankruptcy against the defendants, and, in the absence of such an adjudication, the assignment to the Official Assignee of the Stock Exchange under the rules remains valid. In *Richardson v. Stormont, Todd & Co.*, it was held that the effect

of the Stock Exchange rules on the subject had been to create an equitable assignment to the Official Assignee of the assets of the defaulter. Such an assignment likewise appears to have resulted in the present case from the operation of the Stock Exchange rules as regards the money here in question. The Official Assignee discovered among the assets of the defendants a debt to them from one Ashby, against whom he brought an action in the name of the defendants' firm to recover that debt, in which action he succeeded in getting money paid into court. The plaintiff commenced his action against the defendants in May, 1904, and recovered judgment on June 10th. At that time the money in question had been paid into court, and the plaintiff applied for an order charging it with the amount of his judgment. To this application the answer was made that Graves & Co. were merely nominal plaintiffs in the action against Ashby, the real plaintiff, who was entitled to the money paid into court being the Official Assignee of the Stock Exchange. The learned judge held, as it seems to me correctly, that on the authority of *Richardson v. Stormont, Todd & Co.*, the answer so made to the application of the plaintiff was a good one."

In *In re Halstead, Ex parte Richardson*, [1917] 1 K B 695, the Court of Appeal held that the application for re-admittance to membership of the Stock Exchange, on the footing of the Stock Exchange Rules, together with the member's notice of default operated as an assignment of the member's property for the benefit of his Stock Exchange creditors, and such being a deed of arrangement and not being registered, it was void, so that the trustee in bankruptcy of the defaulter was held entitled to assets collected by the Official Assignee of the Stock Exchange, in spite of the fact that the bankruptcy petition was not presented within three months after the notice of default.

The settlement of the differences due to and by the defaulter's estate is not altogether an easy matter. Some of the rules have been previously given. A claim which does not arise from a Stock Exchange transaction cannot be proved against a defaulter's estate. (1) A creditor receiving, under any circumstances, a larger proportion of differences on a defaulter's estate than that to which each of the creditors is entitled must refund such portion as shall reduce his dividend to an equality with the others, and a member completing a bargain with the principal of a defaulter must



immediately notify the fact to the Official Assignees , (2) creditors for differences have a prior claim on all differences received by or due to a defaulter's estate (R. 179) , (3) members not receiving due payment for securities delivered on the day of default are entitled, so far as regards the value thereof at the average price on the day of delivery, to be paid *pro rata* and preferentially, out of assets resulting in any manner from such securities, or derived from the defaulter's own resources, and should these prove insufficient they shall as to the balance of such claims participate with other creditors in any surety-money of the defaulter , (4) in the case of a loan of money made upon securities the lender must realize his securities within three clear days (unless the creditors consent to a longer delay) or he must take them at a price to be fixed by the Official Assignee (with appeal to any two members of the Committee) Should the security prove insufficient the difference may be proved against the defaulter's estate ; (5) a loan without security shall not be admitted as a claim on the differences of a defaulter's estate, nor shall any such loan when of longer duration than two business days be admitted as a claim on any other of his assets, and should any unsecured creditor receive payment of his loan from a member on the day of his default, such payment being made out of assets not belonging to the defaulter previously to that day he shall refund the amount so received for the benefit of the defaulter's estate , (6) claims arising from bargains or options for a period beyond the third ensuing account day and claims arising from differences which have been allowed to remain unpaid for more than two business days, Saturday excepted, beyond the day on which they become due will not be allowed to rank against a defaulter's estate until all other claims have been paid in full , (7) differences overdue and paid previous to the day of default are not to be refunded , (8) a member who has delivered securities to a defaulter and has not received due payment therefor should immediately apply to the defaulter for the return of the securities, and if such securities were delivered on a ticket the member who had delivered should immediately apply to the member next to him on the trace for payment, handing him the defaulter's dishonoured cheque and the securities (if any) recovered In the case of tickets issued by the Settlement Department application should be made to that department for the trace. Each member on the trace should act in a similar

manner until the ultimate member who dealt with the defaulter is reached. This member should immediately lodge his claim with the Official Assignee. If an intermediary on the trace be a defaulter the dishonoured cheque and securities (if any) should be delivered to the Official Assignee. In the case where a defaulter is a broker, immediately on the declaration, members having accounts open with him should apply to the Official Assignee for the names and addresses of the clients (if any) for whom the bargains are open. If the client is in default all bargains open for him should at once be closed by sale or purchase in the market. Putting the stock or the shares on the "book" without a definite agreement with the client is not closing. (a) If the client is not in default the member should immediately communicate with him. If desired, the Official Assignee will supply a suggested form of letter. (b) A client not in default is bound to complete his transactions at the price of the bargain, or in the case of securities carried over at the last making-up price and rate. (c) The client may complete the transactions direct with the member or appoint a broker, banker, or other agent to complete on his behalf, but no member is compelled to take instructions from the client to "make down". (d) If the client gives instruction to close, the member is at liberty to do so, the difference between the bargain price and the closing price being payable by the client to the member, or by the member to the client as the case may be. Putting the stock or shares on the "book" without a definite agreement with the client is not closing. (e) If after due communication the client fails to give instructions by 3 o'clock on the day before Contango day (or by 11 o'clock on Saturday if the Contango day be Monday) the member is entitled to claim forthwith.

As soon as a client has personally completed his bargain, or the member has agreed to "make down" with a new broker, a supplemental account must be furnished to the Official Assignee setting out only the bargains completed. This account will be the same as regards the prices as the former "Hammer Price" account, but with these items on the reverse sides. If this account shows a difference due to the Official Assignee it must be paid when due. If the account shows a difference due to the member furnishing it, such difference will rank as a preferential claim on

differences and be paid in full, if the differences in the Official Assignee's hands are sufficient

It will be seen that the object sought by these rules is to ensure no creditor shall receive from the defaulter's estate a larger proportion of differences than any other creditor. In other words, equality is aimed at. It is, however, not quite so easy to attain. For sometimes there are two sets of differences to be dealt with. For instance, a broker may have carried-over from the mid-monthly account to the end-monthly account and may be declared a defaulter for not having carried out his liabilities on the mid-monthly account. The first set of differences arose in respect of the carrying-over where the price is fixed on the making-up day, the second in respect of the default. The differences are adjusted by setting off one set of differences against the other, and then, under Rule 180, by refunding, if he has received a larger proportion of differences than the other creditors, such portion as shall reduce his dividend to that of the others. The fund arising from differences, being a special fund for a special purpose, is applied first in payment of differences due from the estate, and only any balance that may remain after these have been paid is applicable towards the satisfaction of any other claims. In *In re Plumby, Ex parte Grant* (1880), *L R*, 13 *Ch D* 667, 673 it has already been stated that members, who have delivered securities and have not received payment, are entitled to preferential payment out of the assets realized by the sale of such securities (Rule 184)

The principle with respect to loans of money made upon securities is that they immediately become due on the borrower making default. If the security for the loan is pledged for less than the market value, as would be the ordinary case, the loan, unless the creditors consent to a further delay, must be realized within three days, or be taken over at a price fixed by the Official Assignee. Reference, however, can be made to the Committee in any case of dispute. Where the security is insufficient the difference may be proved against the estate. Not every loan, however, is treated in this way, for loans without security are not admitted, as would be expected, against the fund arising from differences—and if the loan was for a longer period than two business days, it is not admitted as a claim against the defaulter's assets, although it is clearly a debt. Claims not arising out of a Stock Exchange transaction are not admitted to proof, nor such

Stock Exchange transactions as the Committee do not recognize, as, for instance, options or bargains for a period beyond the accounts. Non-members are allowed to participate in defaulters' estates provided that their claims are admitted by the creditors, or, in case of dispute, by the Committee, and persons whose claims are so admitted may be represented at the meeting of creditors by any member whom they may select (Rule 187). It has already been stated that it is the duty of the Official Assignee to collect the Stock Exchange debts and assets, and these are recovered from members, since members are not allowed by the rules to sell, assign, or pledge their claims to non-members without the consent of the Committee, and all such assignments must be immediately communicated to the Official Assignee (see Rule 188). The following regulations have been made as to the transaction of business for a defaulter's benefit under Rule 190. (1) Members are permitted to carry on a defaulter's business with the creditors' consent and with the permission of the Committee. But this permission is generally only granted pending the settlement of the defaulter's affairs. (2) A member may not deal with a defaulter for his own account before his readmission to the Stock Exchange, nor carry on business with a person who has been expelled from the Stock Exchange. (3) A member may, with the sanction of the Committee, carry on business for or with a person who has ceased to be a member under Rule 42 by reason that he has no share qualification or because he has transferred it, or under the provisions of Rules 45 or 173 (see Appendix), or who after ceasing to be a member from any cause becomes a bankrupt. The Official Assignee causes meetings of creditors to be called where of course the defaulter's affairs, and any offer that he may have to make with reference to a composition, are discussed. The estate is wound up under the creditors' direction by the Official Assignee.

The scale of charge to be paid to the Official Assignees' Department is 5 per cent from £1 to £5,000 collected, and from £5,000, 1½ per cent. Sums received from the estate of another defaulter upon the same settlement and redistributed must be charged with half the above percentage.

It is the duty of the Official Assignees to collect and pay the assets into such bank and in such names as the Committee may from time to time direct. The net proceeds of the collection after payment thereof of all legal and other expenses (including

in respect of the office and administration expenses of the Official Assignees a poundage or percentage on collections at a rate to be approved from time to time by the Committee) and any allowances or payments to the defaulter or his clerical staff which may be authorized by the creditors in General Meeting or by any Committee of creditors appointed by a General Meeting, are required to be distributed as soon as possible amongst the creditors in accordance with these rules up to 20s in the £ on the admitted claims, but without interest. Any surplus after such payment has been made, should there be any, shall be at the disposal of and shall be returned to the defaulter.

The Official Assignees must lay before the Committee once a month a statement of the balances in their hands belonging to defaulters' estates, and the Committee shall order such balances as they think fit to be paid over to the account of the Trustees of the Stock Exchange Benevolent Fund, subject to recall by the Committee for distribution amongst creditors, or for payments by or to the Official Assignees which have been authorized by the Committee. A statement of all such sums paid over, and the amounts remaining in the hands of the Trustees of the Stock Exchange Benevolent Fund at the 31st December each year, must be furnished by the Official Assignees and deposited in the Committee Room, for the inspection of members of the Stock Exchange. The names of defaulters who have been readmitted as members or clerks but have not paid 20s in the £, together with details of the date of readmission, the original liabilities, the dividends paid, and the amount and date of the last payment must be furnished to the Committee by the Official Assignees on the first day of February each year. A statement of all dividends paid during the preceding year on each defaulter's estate must be presented to the Committee by the Official Assignees on the first day of March every year.

The operation of the closing rule as it affects members has already been discussed. It is now necessary to show how it affects non-members.

If A, a member of the public, buys through B, his broker, of C, a jobber, the matter is an exceedingly simple one, since B, the broker, is the agent of A, to make the contract. A could therefore sue C direct, or C could sue A, except for the fact that the contract is made subject to the Stock Exchange Rules (cf Rule 189).

A jobber's right to compel the client of a broker who has defaulted to complete the contract made by the broker on his behalf has frequently been discussed.

In *Beckhuson & Gibbs v Hamblet*, [1900] 2 Q B 18 (affirmed, [1901] 2 K B 73, C A), the defendant employed a firm of brokers to purchase for him certain shares in an undertaking, and instructed them to carry over 210 of these shares to the next account. The brokers, having other orders from other clients, purchased by a single contract in their own name 360 of these shares for the next account from the plaintiffs, who were jobbers on the Stock Exchange, and they apportioned in their books 210 of these shares to the defendant. The brokers, before the next settling day, were declared defaulters, the Official Assignee fixing the price in accordance with the usual custom. The plaintiffs tendered the 210 shares to the defendant, and on his refusing to accept them sold them on the settling day and claimed from the defendant the difference. The plaintiffs failed by reason of the lack of privity of contract, owing to the lumping together of the defendant's orders with other orders.

The judgment of Mr. Justice Kennedy, however, is of considerable importance because he discusses the operation of the rule (then Rule 177) by which the Official Assignee publicly fixes the prices in the case of failure. Mr. Justice Kennedy said "According to the practice of the Stock Exchange, the defaulting broker's client, if he is not himself in default to the broker, has the right to have the transaction carried through between himself and the jobber with whom the broker has contracted in respect of shares in which he is interested, or to accept the Assignee's closing, or to transfer the account in respect of his shares to another broker for the purpose of carrying out the bargain through him. If the client chooses to accept the closing price, then, according to *Hartas v. Ribbons* (1889), 22 Q B D. 254, but not otherwise (*Duncan v Hill* (1873), L R 8 Ex 242), he is bound to indemnify the defaulting broker in respect of the difference found, upon the official closing, to be against him, and in favour of the jobber. If the client of the defaulting broker does complete the transaction which the jobber had open with the defaulter at the time of his default, and upon completion the jobber receives any amount in excess of the price fixed by the Official Assignee at the time of the default for the stock which is the

subject of the bargain, the jobber is bound to account for and pay over this excess to the Official Assignee."

In *Anderson v Beard*, [1900] 2 Q B. 260, the defendant employed a broker to purchase for him certain shares, and afterwards directed him to "carry over" the shares to the next account. The broker did not disclose the defendant's name. The shares were carried over, the broker having defaulted. The plaintiffs, the jobbers, took back the shares at the hammer price, and requested the defendant to take up the shares. He declined. The plaintiffs then sold the shares for the best price obtainable. This was lower than the hammer price. The defendant contended that if he were liable, which he did not admit, it was for the hammer price only. It was held that as he had not adopted any of the three courses open to him, viz., (1) to employ another broker, (2) to take the shares, or (3) to treat the transaction closed at the hammer price, the plaintiffs were entitled to rescind the contract, the repudiation of liability entitling the plaintiffs to treat that as a rescission.

In *Levitt v Hamblet*, [1901] 2 K.B. 53, the shares, on the client of the broker declining to take them, were sold at the best price obtainable, and evidence was given by the Official Assignee that there was no usage in the Stock Exchange which entitled a client when the broker was declared a defaulter to insist upon closing the transaction at the hammer price. Romer, L J., in the course of his judgment, said "No usage has been proved that on the default of the broker the client shall have the option as against the jobber, or the jobber have the option against the client, to treat the contract of purchase or sale as closed at the prices ruling at the date of the hammering. We can only recognize the evidence that exists in this particular case; and on the evidence before us it is clear to my mind that we must accept the usage proved as not giving or conferring any such option, nor, indeed, has the existence of such a usage, conferring such an option, been so established in other cases, or so generally recognized that we ought to assume its existence. On the contrary, I cannot find that in any case the existence of such a usage has been definitely proved, where the existence of it was material for the decision of the case, or any case in which it has been recognized by the judges as a usage of which the Courts take judicial cognisance. The closing rule in no wise affects the position of outsiders. what rights they had before they maintain. The

right of the jobber to compel the client of a defaulting broker to complete is affected by the fact that the jobber has proved against the estate of the defaulter for differences due to him by reason of the closing at hammer prices, and has been paid such differences in full because the jobber is accountable to the Official Assignee for the amount recovered, or if that amount exceeds the sum already received from the broker's estate, then for the latter sum." In *Stoneham & Messenger v. Wyman* (1901), 6 Com Cas 174, a broker had purchased from a firm of jobbers 100 Lake View shares, which had been carried over with the plaintiffs from the mid-December account, 1899, to the next account at  $16\frac{3}{4}$ . The broker was declared a defaulter on the pay-day of the mid-December account, the hammer price being  $15\frac{1}{4}$ . The jobber proved against the defaulters' estate for £150, which they had received in full. The defendant contended that the bargain had been closed at the hammer price, and that he was in consequence not liable to take up and pay for the shares from the plaintiffs, and refused to pay for them. Thereupon the jobbers sold at  $11\frac{1}{8}$ , and claimed £495, the difference between 100 at  $16\frac{3}{4}$  and 100 at  $11\frac{1}{8}$ . The jobbers were compelled to refund the £150 to the defaulters' estate, but they were held entitled to receive the £495.

It is clear that the client has no right to claim the benefit of the selling-out price under the selling-out rule, since the rule applies to members only. Therefore, where a jobber, the plaintiff, had applied to the client of the defaulting broker for a name, which the client refused to give, and the jobber sold out the shares on the market, the objection that the shares ought to have been sold out by the selling-out department was overruled (*Scott v. Ernes* (1900), 16 T L R 498), the rule as to buying-in and selling-out being directory and not imperative, although the word "must" is used.

Appendix 36, Clause 6 (b) of the Stock Exchange Rules, insists that a client not in default must complete his transaction at the price of the bargain, or in the case of securities carried over, at the last making-up price and rate. The member acting for the defaulter must take his instructions to close the bargain from the client of the defaulting broker, or the broker, banker or other agent whom the client may have appointed.

A question has arisen as to whether authorized clerks are bound



by the rule - that is to say, where a broker has dealt with an authorized clerk, is the authorized clerk entitled to have the benefit of the closing at the hammer price or not? The rule uses the term member, and the authorized clerk is treated as bound by the Stock Exchange rule

The case where the jobber has defaulted still remains to be considered. How far is the broker liable to the client, (1) where the jobber's name is not disclosed, (2) where the jobber's name is disclosed? Now the broker is employed as an agent, and must not act as principal, and the client is aware that he is acting as agent. Apart from custom, therefore, since an agent would not be personally liable for the financial default of his principal, the broker is not liable for the jobber, and no such custom on the Stock Exchange rendering the broker liable has been successfully proved, although attempts have been made to prove it. In *Gill v Shepherd* (1902), 8 Com Cas 48, the client made an attempt to prove it, but failed (see also *Wildy v Stephenson* (1884), *Cab & Ell* 3). Where the jobber's name is disclosed, obviously there can be no liability on the part of the broker. In such cases therefore the only remedy the client has is against the jobber, and in respect of that he can claim to come in with the other creditors, if necessary, by getting some member of the Stock Exchange to represent him, or he can pursue his remedies at law.

It is naturally of the greatest importance that the Official Assignee should be put at the earliest moment in possession of the defaulter's books and papers, and, to meet a difficulty that may arise from a defaulter declining to give up his original books and accounts and a statement of the sums owing to and by him in the Stock Exchange at the time of his failure, there is a rule which declares that no defaulter shall be re-admitted who does not, if required, give up the name of any principal indebted to him, or who within fourteen days from the date of his failure shall not have delivered his original books and accounts and a statement of the sums owing by him to the Official Assignee, or to his creditors. Having regard to the penalty imposed by this rule, and the natural desire of defaulters at some time or other to be re-admitted there is generally little difficulty in the Official Assignee and the creditors obtaining the information requested.

## CHAPTER IX

### THE ACCOUNT

IN a large measure the business of the account or settlement concerns broker and jobber, though naturally it is of the utmost importance to the client to know something about it. The Committee at their first meeting in September fix twenty-four Account days for the ensuing year. There are two settlements each calendar month, known as the mid-monthly and end-monthly settlements. The Secretary gives notice of the days thus appointed. The fortnightly accounts vary in period from 13 days to 21 days, and each account or settlement covers four days: (1) the Contango Day, (2) the Ticket Day, (3) the Intermediate Day, and (4) the Account Day. Should the account be so fixed that the Contango Day would in the ordinary course fall on a Saturday, the Contango Day is the preceding business day.

#### THE CONTANGO, CONTINUATION, OR CARRYING-OVER DAY

Now, all stocks and shares bought or sold for the current account, unless they come within the list of exceptions (i.e. those in which dealings are only allowed on a cash basis), must be paid for at the ordinary settlement, or carried over or continued for another account. All transactions in "British Funds" and "Colonial and Provincial Government Securities" are for cash only, as the rules state that forward bargains and options for settlement on the account days are prohibited in these securities. Other transactions which are for cash settlement are the sales of small amounts of stock or a small number of shares, which are done free of stamp and fee. This means that the cost of the stamp duty and registration fee to put them into the jobber's name does not allow him to give the current price for the securities, and he will only purchase them on the understanding that the seller pays the stamp duty and registration fee. The manner in which the transaction is completed by payment and delivery of the security will be discussed later on. The process of carrying over or continuation may now be stated. In carrying over or continuing a price has to be fixed, which is known as the making-up price. This price is determined by the clerk of

the House, and is based upon the actual market price at eleven o'clock on the Contango Day. The rule says that continuations are bargains and not loans, and if effected on the Contango Day they must be effected at the making-up price or, if on any subsequent day, at the then existing market price. The reason for a making-up price arises from the practice of carrying over or continuing bargains, and this in turn arises, because it is often impossible for every buying or selling transaction to be completed at the stipulated time. For instance, a buyer might be disappointed at not receiving the money he expected to receive in time to pay for the shares he had purchased, and might desire an extension of time till he did receive the money. Bonds or shares, on the other hand, might not be available for delivery from a variety of causes. In fact, so many circumstances might render it desirable for a buyer or seller to postpone his bargain, apart from pure speculation, that continuation or carrying over became a necessity which the Stock Exchange had to recognize. As a rule, continuation or carrying over in practice is a speculative convenience, in which market considerations play an important part. The following illustration shows the method by which the bargain is carried over, and explains the necessity for a making-up price. X, who is a purchaser of 100 shares, during the account finds that he is unable to complete his purchase at the account, and, therefore, desires to postpone his payment to the next account. He instructs his broker to carry over his shares. The seller is agreeable to postpone the payment for a consideration, and for this accommodation he charges the purchaser interest for the use of the money employed in holding over the stock till the following settlement. This interest is known as the rate of contango, and is now usually fixed at a certain rate per cent per annum on the money, though in some instances, especially in the Railway market, at so much per £100 stock. At one time the same system of charging so much per share was in vogue in the Mining market, but of late years it has been superseded by rates of interest per annum, and to this now there are very few exceptions. Now, to effect his purpose, the buyer has to enter into two new transactions with the seller, firstly, he sells for the current settlement the 100 shares which he has purchased, and, secondly, he reopens the transaction by repurchasing them for the following settlement. Both these transactions are effected at the

making-up price Let us presume that the 100 shares which X purchased cost him 20s. per share, and that the making-up price was 18s. per share Having purchased at 20s per share—a total of £100—and sold at 18s per share—a total of £90—there would be a difference due from him of £10, which would be payable on the account day Having paid this, his account would then show him to be a purchaser of 100 shares at 18s plus the contango rate for the next settlement. Should he still be unable to pay for the shares, he would again carry them over and, according to the new making-up price, he would either pay or receive a difference If the price were below 18s, he would pay, if above 18s he would receive The process of carrying-over goes on until he either pays for the shares or closes his position by selling them If he takes them up it may happen that the making-up price at which he pays for them is as low as 15s and, although he would only then pay £75 for the shares, he would actually have paid the original cost (i.e. £100 plus contango rates), the difference having been made up by fortnightly differences. Should he close his position by selling the shares, his profit or loss would be the difference between the purchase price and the selling price less or plus the contango rates The carry-over need not necessarily be effected with the jobber from whom the shares were purchased Possibly such an arrangement might not suit him, and X's broker would therefore carry-over the shares with any other person willing to accommodate him. On effecting the carry-over for X, his broker must render him a contract note showing the sale for the current account at the making-up price and the purchase for the new account at the making-up price plus the contango rate. Although this contract note relates to two transactions, it is only liable to stamp duty as though it were for a single transaction. Should it be impossible to carry over the shares, it would be necessary for X to close the transaction for the current settlement by selling them. He could then reopen the transaction if he wished by repurchasing them for the new account. This process, however, is expensive, as he would have to pay the jobber's turn on the two transactions and his broker's commission on the repurchase.

Supposing Z is a seller of 100 shares at 20s. a share He does not possess shares, and is simply a bear. He desires to postpone delivery till the next account, and instructs his broker accordingly.

His position is exactly the reverse of X, as instead of being a borrower of money, he is a borrower of stock. In effect, he is the person who agrees to the postponement of payment by X, and charges him a contango rate for the use of the money employed in holding over delivery of the stock, even though he himself has no stock to deliver. It sometimes happens that there is an excess of speculative sales in certain stocks or shares for a particular settlement, and it becomes extremely difficult to carry over. In this case the bear, instead of receiving a rate, would probably have to pay the buyer interest for the privilege of deferring delivery until the next settlement. This interest is known as a "backwardation." The system of payment and receipt of differences is the opposite of that described for X, a fall in price denoting a difference receivable and a rise in price a difference payable.

A bull, since he is the person who pays a contango rate for the privilege of carrying-over his shares is known as the "giver," and a bear, since he receives a contango rate, is known as the "taker," the two processes being known as "giving-on" and "taking-in" respectively. Other terms used are "lending" and "borrowing," the bull being the lender of the shares, and the bear the borrower of the shares which he has sold and which he requires to complete his bargain.

In both instances where X is a bull and Z is a bear, the terms contango and backwardation have been used, but whether a contango or backwardation has to be paid depends upon the law of supply and demand: if there is a demand for money by reason of a bull account being open, and there is a plentiful supply of stock on the market, the result is that there is a contango, but should there be a scarcity of stock for delivery against sales, the contango may be converted into a backwardation for sellers who have sold stock which they are not in a position to deliver.

There are other considerations which affect the rates of contango or backwardation which may be here mentioned. For instance, there is the state of the money market as indicated by the weekly return of the Bank of England, which is issued every Thursday, and posted up in the Stock Exchange, and the publication of the daily records of the movements of bullion, either into or out of the Bank of England. The form and the details of the weekly report are prescribed by the Bank Charter Act of 1844, Section 6 and Schedule

A. This form may be modified to such an extent as the Treasury, with the concurrence of the Bank, consider necessary, having regard to the provisions of the Currency and Bank Notes Act, 1928 (Section 10 of the 1928 Act). In this return is shown the amount of notes in circulation, the stock and bullion in reserve, and such other matters as enable financiers to judge of the state of the money market and of its probable tendency. Again, rates are affected by the nature of the stock or shares as a money security. Some of the stocks or shares are of a speculative character, liable to violent movements up or down there is a risk that the taker-in, if the borrower should happen to be declared a defaulter, may have to close his account at a loss. A backwardation is payable when there is an excess of bears over bulls. The bigger the bear account open, the heavier will be the backwardation charged.

The surest guide to the probable state of the markets is obtained from a study of the weekly report of the Bank of England. The reason why this return is so valuable as an indication is because all the banks of the United Kingdom keep their bullion reserves at the Bank of England, and this reserve is increased or diminished by the increased or decreased demand for money in the country or the withdrawal of gold for foreign purposes. A scarcity of money means a high rate of interest, and this has a tendency to check speculation, for the contango is necessarily heavier.

The process of effecting contangoes is different from that of ordinary purchase and sale, inasmuch as in the latter case the broker must transact his business with a jobber. Rule 87 states that a broker must not make prices or otherwise carry on the business of a jobber. The arrangement of a contango does not entail the making of prices, as contangoes must be effected at the official making-up prices. It is therefore a common practice, where possible, for brokers to arrange contangoes between themselves, thereby eliminating the jobber. This arrangement is of benefit to the client, for if the contango be done with a jobber, he will quote two rates of interest, the higher at which he is prepared to lend the money and the lower at which he is prepared to borrow the money. The difference in the two rates which constitutes his profit is usually 1 per cent, but may in some cases be greater. Contangoes between brokers are effected at the middle rate, so that there is a saving of  $\frac{1}{2}$  per cent in the rate. A buyer may, instead of carrying-over his

shares in the market, pawn them with his banker or any other person who may be willing to lend him money on the security, but he would not, of course, obtain an advance of the full value of the shares. Then again, when it is not possible to give-on the shares in the market, a broker will often take-in the shares himself. He then deposits them as security with his bankers, from whom he is usually able to borrow money at a reasonably low rate of interest.

It is now possible to examine the legal position created by some of these methods of carrying-over or continuation. (1) Where the stock is taken in, then the taker-in becomes the purchaser of it, and the property is in him. In other words, he buys it subject, however, to the obligation to deliver back a similar amount of stock at the same price for the next account. (2) Where a loan is advanced upon the stock the lender is not the purchaser of the securities, and he is not entitled to place beyond his control securities received as security for a loan, and he may, after reasonable notice and upon payment of the principal, together with interest up to the time for which the loan was originally made, be required to return the identical bonds, or to re-transfer the securities given as security for such loan. If the lender sells and makes a profit before the loan is due he must account for it to his mortgagor (*Langton v. Wate* (1869), *L R.*, 6 *Eq.* 165). Any usage authorizing a mortgagee of securities to deal with them as his own, and on being paid off to re-transfer similar securities, would consequently be bad. In the ordinary way, a mortgagee of stocks and shares has a power of sale. When the time fixed for payment has elapsed, or where there is no time fixed for payment, he can sell after a reasonable time (*In re Morritt* (1886), 18 *Q B D.* 222; *Tucker v. Wilson* (1714), 1 *P Wm's* 260, reported also *sub. nom.* *Wilson v. Tooker*, 5 *Bro P C.* 193), the ground being that the value of the stocks being subject to fluctuations, the necessity for obtaining a decree of foreclosure would as a matter of business destroy the security (*Deverges v. Sandeman, Clark & Co*, [1901] 1 *Ch* 70, [1902] 1 *Ch.* 579).

Where a certificate of shares is deposited as a security for a debt and interest without a transfer or memorandum, the remedy of the lender against the shares is to obtain an order for transfer and foreclosure, for a pledgee has only a special property in the thing pledged. "He may obtain a sale, but he cannot obtain a

foreclosure," but a deposit of a certificate or shares is not a pledge. "A share is a chose in action, the certificate is merely evidence of title." "The deposit of a certificate by way of security amounts to an equitable mortgage, or to an agreement to execute a transfer of the shares by way of mortgage" (*Harrold v. Plenty*, [1901] 2 Ch. 314).

But the liability does not apply to a member who has taken in shares or stock upon continuation (Rule 107).

Assuming that an irregular sale of shares has taken place, what is the mortgagor's remedy? He can, if he chooses, charge the mortgagee with the price he gets for them. During the existence of the loan the mortgagee, in the absence of stipulations to the contrary, must pay calls which fall due and account for dividends or a bonus (*Vaughan v. Wood* (1833), 1 Myl & K. 403). The measure of damages for non-delivery at the appointed time is their value at the time they should have been delivered or at the time of the trial (*Owen v. Routh* (1854), 14 C B. 327). On payment of the debt the mortgagee must hand over the security, and if he cannot do so, through having improperly made away with it, he cannot have judgment for his debt. (See *Ellis & Co.'s Trustee v. Dixon-Johnson*, [1925] A C. 489)

Continuations are not always effected between the original parties to the contract. Brokers frequently take in stock for their clients. In such cases questions may arise and have arisen as between client and broker as to the rights of third parties and clients. Where the securities remain in the broker's possession and the broker becomes bankrupt the client is entitled to recover them, and in the case of money it may be followed where it can be traced, as the proceeds of the sale of the clients' security, in cases where the money is known to the broker to have been trust money (*Ex parte Cooke, In re Strachan* (1876), 4 Ch D. 123), and it seems that it would make no difference whether the trust was known to the broker or not, for, apart from this question, the position of a broker is not that of a banker, but of an agent into whose hands money is placed to be applied in a particular way, and such money, therefore, can be followed by the customer.

In *Hancock v. Smith* (1889), 41 Ch D. 456, a broker had a sum of money at the bank, none of which belonged to him. A judgment creditor of the broker having obtained a garnishee order on it, it was



held on appeal that the order must be discharged, since an execution creditor can only lay hold of what is the property of his debtor, and the evidence showed clearly that this money was paid in under such circumstances that no part of it was the debtor's own. In other words, the whole fund consisted of money not borrowed by the defendant from his clients, but received by him as agent for them, and, therefore, might be treated as trust money. The case of *Bentnck v London & Joint-Stock Bank*, [1893] 2 Ch. 120 has a special relation to the practice of carrying-over, for a considerable amount of evidence was there given as to the practice of taking-in of registered securities by brokers. It seems that in that case stockbrokers had been employed by a client, and made for him from time to time speculative purchases of stock, shares, and bonds. The brokers furnished the money and the client authorized them to hold the purchased stocks, shares, and bonds as security for advances. The brokers deposited bonds, stocks, and shares with the London Joint-Stock Bank belonging to various clients *en bloc*, in respect of advances. Ultimately the brokers became defaulters, and were adjudicated bankrupts.

At the date of the default the bank held stocks and shares transferable by deed, these had been transferred and stood in the names of trustees for the bank. Some of these transfers had been made by the client, the consideration there expressed being nominal. Some had been made by the brokers and by third parties expressed for full value. The bonds passed by delivery. The client claimed to redeem his securities on payment to the bank of the amount due to the brokers; the bank claimed to hold them till a larger amount due from the brokers was repaid. It was held that there was nothing to indicate to the bank that the stocks and shares transferred to their trustee were not the property of the brokers, and that therefore the bank were *bona fide* holders for value, and the plaintiff could not redeem without paying the amount due from the brokers to the bank. With reference to the transfers executed by the client, since he had executed them, he was estopped from denying the authority of the brokers, and since bonds were negotiable securities and the law lays no obligation on the lender to make an inquiry into the title of the person whom he finds in possession, the bank was entitled to hold these also (see *London Joint-Stock Bank v. Simmons*, [1892] A C. 201 on this later point)

The Stock Exchange rules, which affect the carry-ing-over, declare that in the case of all securities included in the Stock Exchange official list of making-up prices, the Clerk of the House must fix the making-up prices by taking the actual market price at eleven o'clock on the Contango Day, and no making-up is binding unless at the official making-up price, or where none is fixed, at the then existing Market Price. Where securities have been made ex-dividend on the Contango Day, the making-up price must be fixed by taking the cum dividend cash price.

In case of dispute as to the making-up price or of any omission in fixing the same, the Clerk of the House acts upon the decision of two members of the Committee.

The making-up prices so fixed must be published in the Stock Exchange official list of making-up prices under the authority of the Committee and subject to the regulations which are contained in Appendix 33, headed *Regulations as to the Inclusion of Securities in the Stock Exchange Official List of Making-up Prices*. Not all securities dealt in on the Stock Exchange are included in this list. The list is subject to revision at intervals of not more than three months. Securities not undertaken by the Settlement Department may only be included in the Official List of making-up prices for ordinary accounts subsequent to the first settlement upon the signed requisition of five members or firms, two of whom at least shall be brokers, but securities undertaken by the Settlement Department will be included in the Official List of making-up prices without requisition. During the course of the account, brokers and jobbers enter all their transactions for settlement on the account day in a book known as the List Book. In this book all the stocks dealt in are entered in alphabetical order, and all transactions are entered under their particular heading in the order in which they take place. By this means the exact position in any particular stock can be immediately ascertained. On completion of the contangoes, they are entered in the List Book, which is then balanced off. It is the duty of all members on the Contango Day to make a return to the Settlement Department, or clearing-house, of all transactions effected during the current account in the various securities of which the department undertakes the settlement. Failure to do so entails a fine for every list omitted. Further details of the working of this department are discussed later on.

The member then prepares his "Names Book," this being a rough book showing the names or tickets which he has to pass or receive on the following day, which is known as Ticket Day.

### THE TICKET OR NAME DAY

The Ticket Day is the second day of the settlement, on which begins the intricate process by which the ultimate buyer and seller of stocks or shares are brought together. It is called the Ticket Day because of the passing of tickets on that day. A member who has purchased securities, deliverable by deed of transfer, is required by the Stock Exchange rules to pass a ticket with his name as payer of the purchase money. This ticket must contain particulars of the amount and denomination of the security to be transferred, the name, address, and description of the transferee in full, the price, the date, and the name of the member to whom the ticket is issued. A fair proportion of this business is now transacted by means of the Clearing House, termed the Settlement Department. This department was originally instituted by private enterprise, with the approval of the Committee. It is now an officially recognized institution referred to in the rules. Any member who may deal in securities of which the Settlement Department undertakes the settlement, must be a member of the department. It is supported by means of assessments made on the members according to the amount of business transacted for them. Since the Settlement Department does not clear all stocks and shares, its agency is not in all cases available. Its object in cases where it can be used is to enable members to set off purchases against sales of similar securities, delivering or receiving the balance as the case may be. Where there is no market or practically a very limited one, it is obvious that the services of the Clearing House would not be required, for its aim is the simplifying of dealings in stocks and shares in which the transactions are numerous. Hence there is an official list of stocks and shares which are dealt with by the Clearing House. In times of speculative activity there is always an increase in the number of stocks and shares included in its operations, and naturally there is a corresponding decrease in periods of depression.

Before explaining the *modus operandi* of the Clearing House or Settlement Department, it is necessary to explain more in detail what is meant by passing the ticket. In regard to registered stocks

and shares the practice of passing the ticket is ancient. An illustration may be shown of the working. Supposing that A, a broker, acting for a client, has sold shares on the Exchange to B, a jobber, who has sold to C, C selling to D, D to E, and E to F, a broker who has bought for a client. A, the broker, will ultimately deliver the shares to F and his client. A is the deliverer, F is the issuer of the ticket, being the buyer or the person who takes up the securities. F being the buyer who proposes to take up the securities deliverable by deed of transfer, issues a ticket with his name as payer of the purchase money. As the buyer, he must issue this before three o'clock on the Ticket Day. The passing of the tickets begins at ten o'clock. The particulars to be stated on the ticket have been detailed in the previous paragraph. Thus, as in the illustration above given, F, as the issuer of the ticket, having filled it up with the necessary particulars, passes it to E, E endorses it with the name of his seller and passes it to D, the process being repeated till it comes to the hands of A, the deliverer, the person who is the ultimate seller, or the holder of the ticket. All tickets representing securities which at the time are subject to arrangement by the Settlement Department, and all tickets representing securities dealt in in the Mining Markets or in the Rubber Section of the Miscellaneous Market which are included in the "Stock Exchange Official List of Making-up Prices," must be passed through the accounts at the making-up price of the Contango Day and the securities paid for at that price; but the consideration money in the deed must be at the price on the ticket. The Committee will not, except under special circumstances, interfere in any question arising from the delivery of securities by transfer in blank.

The ticket is made out in a printed book with a perforated counterfoil and the particulars are entered on the counterfoil with the name of the person to whom the ticket is passed. Thus, if F has bought on behalf of his client 100 Charteredds at £2, the ticket will then be in some such form as is shown on page 199.

The meaning of the words "F & Co pay" is that they are to be applied to by the vendors' broker for the purchase-money of the shares, but it does not necessarily imply that they are to be the transferees of the shares (*Allen v. Graves* (1870), *L.R.*, 5 *Q.B.* 478).

The seller need not deliver his transfer or stock direct to F. & Co ,

whose ticket he holds ; he may elect to deliver it direct to his jobber from whom he received the ticket or with whom he dealt, and thus let the delivery pass right through the trace to F & Co

To go back to the process of passing the ticket, F's clerk will hand the ticket to E's clerk, who will keep a record of the number of the ticket, the amount of shares, the price, and making-up price if it be a stock which must be paid for at that price, and the name of the person to whom he passes it, viz D, and D will repeat this process and so on until it reaches A

Should the stock be one which, according to the rules must be settled at the making-up price, each person concerned will credit the account of the person from whom he received it and debit the account of the person to whom he passed it with the value of the shares at the making-up price, otherwise the entry must be made at the ordinary price of the ticket. Any difference between the amount so entered and the amount of the original transaction is payable or receivable on the Account Day.

The buyer of securities passing by delivery is not bound to pass a ticket, but where tickets do pass the deliverer is required to apportion such securities to each ticket at the time of delivery and the taker of securities, in order to secure his right under Rule 134, must keep such tickets and the numbers of the securities to which they were respectively apportioned, or in the case of Settlement Department tickets the numbers of such tickets (For particulars of Rule 134, see later in the chapter under the heading "Securities Passing by Delivery.") In the case of securities deliverable by deed of transfer, tickets may be issued and left at the office of the seller on the Contango Day (subject to the provisions of Rule 149) and up to three o'clock on the Ticket Day. After this hour all tickets must be passed in the Settling Room Tickets may be placed in the boxes in the Settling Room up to eleven o'clock on the Account Day.

A member not refusing an antedated ticket when tendered as such takes it with all its liabilities, but if it be passed as an ordinary ticket the liabilities remain with the member putting such ticket again into circulation, and any member holding an undated ticket is not liable for any loss arising from the securities having been bought in, unless such ticket has been seven days in his possession.

*All dividends and rights are hereby claimed.*

No 12380

100 Chartered @ £2 —

Cons	£	s	d
Stp.	200	—	—
M/U	2	—	—

To *John Slater*

*Laburnum Villa*

*Meredith Road*

*Twickenham*

*Engineer*

Given to *E*

*5th January, 19*

No. 12380

If this ticket be divided,  
the number and the name  
of the party dividing it  
must be inserted, other-  
wise it will not be paid for

Cons	£	s	d
Stp.	200	—	—
M/U	2	—	—

100 Chartered . . . @ £2.

To *John Slater*

of *Laburnum Villa*

*Meredith Road*

*Twickenham, Engineer*

Given to *E*

*5th January, 19*

*F. & Co.*

*Pay.*

A member who makes an alteration in or improperly detains a ticket must make good any loss that may occur thereby.

Before further explaining the process of the passing of tickets and the consequences which result from delay or a failure to pay it will be convenient to refer to an operation which not unusually takes place over a sale of securities, which is known as splitting the ticket. It may also be desirable in this connection to refer to the working of the Settlement Department or Clearing House, and the part that it takes in preventing unnecessary trouble to members of the Stock Exchange who are also members of the Clearing House.

Splitting the ticket is an elaboration of the ticket system, and is caused by the fact that a ticket that is passed may reach the hands of a jobber, who has sold a block of shares, which he has bought in smaller amounts from brokers or dealers. Now, when the ticket reaches him, as it will from the issuer of the ticket, an apparent difficulty confronts him—how is he to pass the ticket to those who have purchased the shares of him in smaller quantities? The difficulty he surmounts by splitting the ticket. He keeps the original ticket in his possession, and issues a number of other tickets. These tickets are known as split tickets, and must bear the name of the person or firm splitting. The number, the price, the buyer's name, address and description, and the payer's name are the same as on the original, but the amount differs. The buyer, having purchased his shares in one block is responsible for payment of stamp duty and registration fee on the total consideration as if the shares were conveyed to him on one transfer. The operation of splitting the ticket means that the buying broker will have several transfers delivered to him instead of one, and he will have to pay the stamp duty on each individual transfer. The total might, therefore, be greater than the stamp duty on one transfer. Then again, when he presents the transfers for registration he will have to pay a registration fee in respect of each deed. These extra charges are known as splits and are recoverable from the person splitting the ticket. The buying broker makes out a claim stating the difference in the stamp duty and the registration fees, and attaches the split tickets to it. He does not make the claim on the person who split the original ticket, but on the person to whom he passed such ticket. The claim is then passed on the same trace as the original ticket until it reaches the person liable for the loss.

Claims for loss on split tickets will not be deemed valid unless made by the original claimant within three months after the date of the ticket, but the member splitting the ticket is liable to intermediate claimants for a period of four months. But the liability of members to the Settlement Department in respect of losses on split tickets collected by the department is for a period of six months from the date of the ticket. The custom of splitting tickets is a reasonable one, and has been judicially recognized (See *Bourring v Shepherd* (1871), *L R*, 6 *Q B* 309).

A member splitting a ticket must retain the original ticket, and, should he fail to do so, he will be required to trace it in case of selling-out. The deliverer must cause the securities to be transferred at the price marked upon the ticket. Tickets should be issued at the price of the bargain, but in the case of securities taken up subsequently to their being continued, tickets should be issued at the making-up price at which they were last continued.

Some reference has already been made to the Settlement Department or Stock Exchange Clearing House. It is now proposed to describe the ingenious mechanism by which the multifarious transactions of the settlement are simplified, and much unnecessary labour undoubtedly saved.

The Settlement Department is an important branch of the Stock Exchange and plays a great part in its life, and its business is to clear up transactions in the securities it deals in in the speediest way. Any firm or member dealing either as a broker or dealer in securities of which the Settlement Department undertakes the settlement, must be a member of that department, and every firm or member engaged in active business is required to have a box in the Settling Room. The business of this room is carried on principally by Settling Room clerks, and a defaulter may be employed by a member as his clerk subject to compliance with the terms of Rule 65. Appendix 20 requires that any member applying for a Settling Room clerk must satisfy the Committee that (1) the clerk is of the requisite age, which is fixed for an unauthorized or Settling Room clerk at 17; (2) that the clerk would be in all other respects eligible for admission as a member; (3) that he has obtained a satisfactory reference from the clerk's last employer; and (4) that he has a sufficient knowledge of the clerk's previous career. If the clerk has been in partnership out of the Stock



Exchange he must submit to the Committee a copy of the *London Gazette* in which the dissolution of partnership is notified (As to an application for a temporary unauthorized clerk, see Rule 60, Appendices 21 and 22 (*infra*), and as to badges to be worn, see Rule 68 and Appendix 30) A member may introduce two Settling Room clerks to the room, a firm six; and members may be employed as unauthorized or Settling Room clerks in excess of these numbers.

It has already been stated that, on the Contango Day, all members have to make a return to the Settlement Department of all transactions during the current account in securities of which the department undertakes the settlement. This is done on a special list, a specimen of which is given on page 204

In this list the names of the members to whom securities have been sold appear on the right-hand side, and on the left-hand side the names of members from whom securities have been bought, the amounts of the securities bought or sold appear in their respective columns. As a rule, it will appear that the list shows a balance one way or the other. The firm sending in to the Clearing Department may make to take, for instance, a balance of securities from the Department. The clerks of the department make a "trace" from the taker of shares to the deliverer, keeping a record of each member's name through whom the trace goes.

It will be seen that the business of the Clearing House is to bring the actual buyer and seller together, and thus obviate the necessity for tickets passing through the whole trace as before mentioned. This saves considerable work and time, as the department takes the name from the buyer and passes it direct to the actual seller. In the case of bearer securities, the department issues to the seller a ticket showing to whom the stock should be delivered, and to the purchaser a note of the person or firm making delivery.

A member who receives a ticket relative to a security deliverable by deed of transfer from the issuer after three o'clock on the Ticket Day, must note the time received on the back of the ticket. In the case of securities dealt with by the Settlement Department, a member receiving a ticket after two o'clock on the intermediate day, or at any time on any subsequent day, must mark the date and exact time of receipt on the back of the ticket. For securities which are not dealt with by the Settlement Department, a member

receiving a ticket after six o'clock on the Ticket Day, or at any time on any subsequent day, must endorse the ticket with the date and the exact time of receipt. Any member omitting to note the times as stated may become liable for losses occasioned by selling-out.

• A jobber who wishes a security transferred into his own or his nominee's name under Section 42 of the Finance Act, 1920, must issue his ticket, bearing a certificate, signed by himself, in the following terms—

“Delivery on a ten-shilling stamp under the Finance Act, 1920, Section 42

“I (we) certify that the purchase referred to in this ticket was effected by me (us) in the ordinary course of my (our) business as a Jobber(s) on the Stock Exchange ”

Any split ticket must bear a copy of this certificate. A jobber is not allowed to apply the foregoing to a continuation or carry-over. (For the provisions of Section 42 of the Finance Act, 1920, see the Glossary of Terms, Chapter XVII.)

The procedure of passing tickets for bearer securities, or securities passing by delivery as they are termed, is somewhat different from that ruling for those passing by deed of transfer. As previously stated, a buyer of bearer securities is not bound to pass a ticket, but in the case of those bearer securities which are dealt with by the Settlement Department, tickets are always issued by the department. On the Ticket Day between one and four o'clock, scrip tickets may be passed at the making-up price of the Contango Day. They must not be issued later than three o'clock on the Ticket Day, must bear distinctive numbers, and must be for the following amounts—

£1,000 stock, on multiples of £1,000, up to £5,000, or the equivalent in foreign currency ;

5 shares, or multiples thereof, up to 100

Tickets for £500 stock may be passed for bargains or balances of that amount, any smaller amounts being settled without tickets. Scrip tickets must not be split, except in the Settlement Department, and a member must endorse on the scrip ticket the name of the member to whom it is passed. Sellers must accept scrip tickets.

## Date \_\_\_\_\_

Name of Stock

Name of Member

[illegible]

## THE INTERMEDIATE DAY

This, the third day of the settlement, is more or less a spare day. Years ago the four days of the account were the Mining Contango Day, the Miscellaneous Contango Day, the Ticket Day, and the Settlement Day. Now the two Contango Days have been amalgamated and the Ticket Day becomes the second day of the account. The process of passing tickets is one which it is impossible to complete in one day, and the Intermediate Day is utilized for the continuance of ticket passing, the balancing of ledgers in readiness for the settlement of differences, and the preparation of other matters that have to be attended to on the Settlement Day.

## THE SETTLEMENT DAY

The Settlement Day, or as it is otherwise termed the Account Day or Pay Day, is the fourth and last day of the settlement. On this day differences on accounts are payable, and the delivery of stocks sold for the account commences. It will be necessary to consider here the various rules relating to bargains and the settlement of accounts, and the delivery of registered and bearer securities.

The Ledger accounts having been balanced, any difference thereon must be collected or paid. For the purpose of estimating differences, the rules provide that on the morning of the Account Day all unsettled bargains must be brought down and temporarily adjusted at the making-up price of the Contango Day. An unsettled bargain in this sense is not necessarily one where stock purchased or sold has not been delivered and paid for. The term is used for Ledger purposes only. So far as Ledger accounts are concerned, a bargain is settled either by a *contra* sale or purchase, by a continuation or carry-over, by the clearing of the stock or shares, by the passing of a ticket, or in the case of bearer stock where no ticket passes, by the receipt or payment of cash against delivery of the stock.

All bargains are for the current account unless otherwise stipulated, but those made on the Contango Day are for the ensuing account. Bargains in new issues are for the account unless otherwise specified, but where renunciation letters are issued on which nothing has been paid, the transactions are for cash during the currency of the letters. Where an instalment on scrip falls due on

Account Day, the settlement of the scrip takes place on the previous day.

The delivery of securities commences at ten o'clock on the Account Day, but no delivery may take place on Saturdays, unless otherwise arranged

All cheques, whether for the payments of stock, or differences, must be drawn on the Bank of England, Threadneedle Street, or a Town Clearing Bank, must be crossed payable to bearer and marked "not negotiable," and must be presented for payment through the Bankers' Clearing House. An exception is made to this rule in the case of cheques for dividends, as these may be drawn on order

A member may demand Bank Notes in payment for Securities sold, but if he did not make such stipulation at the time of the transaction he must give notice to his buyer to that effect before 11.30 on the day of delivery, and payment must be made upon delivery of the securities Bank Notes, however, cannot be demanded in payment of differences

A member is not obliged to take a reference for payment to a non-member, neither is he obliged to pay a non-member for securities bought in the ~~Stock-Exchange~~.

A seller is not bound to deliver securities direct to the person or firm named on the ticket as payer, but may, if he so wishes, deliver the securities direct to the dealer to whom he sold them In this case he must deliver the securities before half-past twelve o'clock. Intermediaries on the trace must, however, pay their sellers up to one o'clock. Further, if the seller presents the securities to the issuer of the ticket and fails to receive payment, or receives a cheque which is dishonoured, the member who passed him the ticket must make immediate payment

In the settlement of all bargains except those coming under the provisions of Rule 139 (2) (see Appendix) and 5 per cent War Stock 1929-47 Inscribed and transferable by deed, dividends must be accounted for at the net amount receivable after deduction of Income Tax

#### SECURITIES DELIVERABLE BY DEED OF TRANSFER

The seller of securities deliverable by deed of transfer is responsible for the genuineness and regularity of all documents delivered, and when an official certificate of registration of such securities

has been issued, the Committee will not, unless bad faith is alleged against the seller, take cognizance of any subsequent dispute as to title until the legal issue has been decided, the reasonable expenses of which legal proceedings must be borne by the seller. Nor will they, except under special circumstances, interfere in any question arising from the delivery of securities by transfer in blank. The seller is responsible for such dividends as may be due to the buyer, unless an unreasonable time has been taken by the transferee to execute and lodge the documents for registration, or there has been unreasonable delay in claiming the dividend.

It will be seen that it is necessary for the transferee to execute and lodge the documents for registration without any undue delay, and where registration is not effected in time for him to receive payment direct from the Company of any dividend or other right due to him, a claim for such dividend or right should immediately be lodged with the seller. No notice of any trust expressed, implied, or constructive may be entered on the register or be receivable by the Registrar in the case of Companies registered in England (Section 101, Companies Act, 1929). A transfer by a personal representative is good (Section 64, *ibid* ).

The deliverer may, previous to delivery, pay any call made on registered securities, provided a call letter has been issued, and claim the amount of the issuer of the ticket on delivery.

The buyer of securities must pay the stamp duty and the transfer registration fee in cases where it has been paid in advance by the seller. In the case of a loan, the borrower must pay the nominal consideration stamp, the registration fee, and the mortgage stamp.

A seller delivering a transfer into the name of a jobber or his nominee on a ten-shilling stamp duty under the Finance Act, 1920, Section 42, must see that it bears, in addition to the ten-shilling stamp duty, either the supplementary stamp required by the Act or a signed endorsement by the delivering broker to the following effect—

“I (We) hereby declare that this transfer was delivered by me  
(us) to on the

(Signed)

Members of the Stock Exchange.”

The buyer of securities may refuse to pay for a transfer deed unaccompanied by the certificate, unless it be officially certified thereon that the certificate is at the office of the Company. But if the transfer deed be perfect in all other respects the securities must not be bought-in until reasonable time has been allowed to the seller to obtain the certification required. If the seller has a larger certificate than the amount of stock conveyed, or only one certificate representing stock conveyed by two or more transfer deeds, the certificate may be deposited with the secretary of the Share and Loan Department of the Stock Exchange or an official of that department to be appointed for the purpose, who must forward it to the office of the Company, and certify to that effect on the transfer deeds which shall then be a valid delivery. No person is to look to the trustees and managers or Committee of the Stock Exchange as being liable for the due and accurate performance of those duties, the trustees and managers and Committee holding themselves and being held entirely irresponsible in respect of the execution or of any mis-execution or non-execution of the duties in question. These provisions apply only to transfers of any stock or shares which the department may from time to time certify.

A transfer deed is deemed to be officially certified if it is certified (a) by or on behalf of the Company concerned, (b) by an official of the Share and Loan Department as provided above, or (c) by an authorized official of any Stock Exchange affiliated to the Council of Associated Stock Exchanges, provided that the committee has by resolution agreed to recognize such certification. For a list of the Stock Exchanges affiliated to the Council of Associated Stock Exchanges whose certification is recognized by the Committee, see supplementary resolution to Rule 129 (3) in the Appendix.

A member is not required to pay for securities presented after a quarter before two o'clock.

When there has been a declaration of a dividend, in respect of which the transfer books are closed at the date of delivery, the buyer is entitled to deduct this when paying for securities. In cases where dividends are declared payable in a foreign currency, the secretary of the Share and Loan Department must fix a price for the dividend in sterling money, which must be posted in the Stock Exchange, and the dividend must be accounted for at such price. (Rule 133.)

It may be noticed that in making out the transfer of the shares, a duty which is cast upon the deliverer or seller of the shares, there may, by reason of sub or intermediate sales, be a variation between the price for which the shares were originally sold by the vendor, and the price which the ultimate purchaser or the issuer of the ticket pays for them. Thus, if A, the seller of the shares, sells them for £245 to B, and B sells to C, and C to D, who is the ultimate purchaser for £250, B and C have both sold at increased prices. A might say that the price that he sold at was £245 and not £250, and object to a transfer which stated the consideration was £250. In the case of *Mewburn v. Eaton* (1869), 20 L T 449 a vendor actually did raise this point. The Stamp Act, 1891, requires that the consideration paid by the ultimate purchaser shall be inserted as the consideration. In *Case v. McLellan* (1871), 20 W.R. 113 a foot-note was added to the transfer deed to the effect that the consideration money differed from that which the first seller was to receive, owing to the sub-sale by the original buyer, and that it was so stated to comply with the Stamp Act. The Court construed this as part of the deed, serving as an acknowledgment of the money, and held that the deliverer was not entitled to object to the transfer. In accordance with a suggestion thrown out, the note appended to the transfer has now been amplified. (See form of deed of transfer)

#### SECURITIES PASSING BY DELIVERY

Rule 134 states that—

(1) The seller is responsible for the genuineness of the securities delivered and in case of his death, failure, or retirement from the Stock Exchange, such responsibility attaches to each member in succession through whose hands the securities or the scrip ticket representing such securities shall have passed

(2) (a) Bonds to bearer, bearer scrip, and share warrants to bearer are recognized as being negotiable instruments.

(b) In cases, however, where a Government or other issuer of any security to bearer, or the agents of such issuer, have declined for any reason peculiar to that security, as compared with other securities of the same issue, to meet its obligations thereunder or any of them, the buyer may submit the case to the committee, who may, if in their opinion the circumstances warrant such action,



require the security to which the disability attaches to be returned to the seller, and a similar security not subject to such disability to be delivered in its place. The committee may determine the points or date to which the trace back shall be carried.

(3) The deliverer of securities on scrip tickets must apportion such securities to each ticket at the time of delivery, and the taker of such securities, in order to secure his right under this rule, must keep such tickets with the numbers of the securities to which they were respectively apportioned, or, in the case of Settlement Department tickets, the numbers of such tickets.

The holder of a scrip ticket who allows two business days, Saturday excepted, including the Account Day, to elapse without delivering the securities, releases his buyer from any loss in consequence of the declaration of any member as a defaulter.

Bargains in bonds and debentures include the accrued interest in the price, but there are certain exceptions. Thus British, Dominion, and Colonial Treasury and Exchequer Bonds or Bills, Rupee Paper, India railway debentures and certain securities of a like character, which are dealt in so that the accrued interest up to the day for which the bargain is done is paid by the buyer. Such interest is to be accounted for in full without deduction of Income Tax.

(1) Securities which are sold cum coupon must be delivered with the coupon unless they have been made ex coupon before or on the date for the completion of the bargain.

(2) Except as provided above, should a bond be sold cum coupon and be delivered without the coupon the seller must compensate the buyer by the payment of—

(a) In the case of coupons payable only in London, the value of the coupon, less income tax.

(b) In the case of coupons payable abroad or both in London and abroad, the market value of the coupon on the date for which the bargain is done without deduction of income tax. In case of dispute the Secretary of the Share and Loan Department will fix the market value. (Rule 139.)

It must be particularly noticed that no securities will be good delivery without the coupon before they are made ex coupon.

In the case where dividends are payable abroad, or both in London and abroad, the Secretary of the Share and Loan Department will fix the market value of the dividend or coupon in sterling

money, which will be posted in the Stock Exchange, and the dividend or interest must be accounted for at such valuation.

Should the buyer of "American" shares be unable to obtain the dividend to which he is entitled from the transferor or his agent the deliverer is responsible to the buyer for such dividend, provided that not more than eleven clear days have elapsed between the day of delivery and that of the closing of the books of the Company.

A bond or certificate is to be considered perfect unless it be much torn or damaged or a material portion of the wording be obliterated. The Committee will not take cognizance of any complaint in respect of a bond or certificate alleged to have been delivered in a damaged condition, or deficient in or with irregular coupons, if the bond or certificate is detained by the buyer more than eight days after the delivery, unless it can be proved that the member passing it was aware of its being imperfect.

A member cannot be required to accept delivery of American shares or registered bonds in names requiring legal or other documents to be attached in order to effect transfer. The Committee will not take cognizance of any complaint in respect of the irregularity in the endorsement of an "American" share certificate should such certificate be detained by the buyer more than three months after delivery, unless it can be proved that the member who passed it was aware of the irregularity. With reference to the delivery of a certificate of "American" shares, a member may not be required to accept the delivery of a certificate which represents a larger number than—

100 shares up to and including	\$5 each
50    "                   "           "	\$25 each.
20    "                   "           "	\$50 each
10    "    of any other denomination, or shares of no par value,	

nor an American bond of a larger amount than \$1,000. Smaller certificates or bonds must be of such denomination as to be deliverable in the above amounts

A member may not be required to pay for securities presented after a quarter before two o'clock. On the Account Day the holder of a scrip ticket must deliver before one o'clock. The buyer is

required to pay for such portion of securities as may be delivered within the prescribed time.

Shares in "American" Companies are represented by certificates registered in the name of a person or company. They have a form of transfer and attorney printed on the back. The practice is for this form to be signed by the registered holder in blank, and this makes the certificate a security passing by delivery. Certificates must be endorsed by the holder in exactly the same manner as he is described on the face of the certificate, his signature must be witnessed, and in most cases guaranteed by a banker or a member of a Stock Exchange. Certificates registered in the name of a limited company must be endorsed with a statement, signed by the registered holder, to the effect that all documents necessary to effect a transfer of the shares have been lodged with the registrars of the company. Any certificate which is endorsed on behalf of the registered holder by his attorney is not a good delivery.

#### GOVERNMENT AND CORPORATION INSCRIBED OR REGISTERED STOCKS, ETC

The rules relating to Government and Corporation inscribed and registered stocks are as follows—

Stock receipts must be delivered by a quarter before three o'clock

If a deliverer elects under Rule 106 (which is the rule which enables a seller to demand payment from the member who passed him the ticket) to deliver a stock receipt to the member with whom he has dealt, he must deliver such receipt by half-past two o'clock. Securities under the headings "British Funds," "Dominion, Provincial and Colonial Government Securities," and "Corporation and County Stocks," transferable by deed or to bearer, must be delivered by a quarter-past two o'clock. The seller of Bank stock must pay the transfer fees, and the buyer may require as many transfers as there are even thousand pounds stock in the sum dealt in. Bargains in Exchequer Bonds and in stock certificates are for bonds and stock certificates not filled up to order. A buyer of British Government stocks is entitled to delivery of inscribed stock unless otherwise arranged.

The buyer is entitled to deduct the dividend when paying for securities of which the books are closed for the payment of the dividend.

## EX DIVIDEND

Government and Corporation securities, inscribed, registered, scrip, certificates or bonds, are made ex dividend on the day after that on which the books close for the payment of the dividend, except Victory Bonds, which are made ex dividend ten days prior to the payment of the dividend. Securities deliverable by deed of transfer, except registered debentures, are made ex dividend on the Contango Day following the date on which the dividend may have been declared, provided the transfer books have already been closed for the payment of the dividend. If the transfer books are not closed until after the dividend has been declared, the securities will be made ex dividend on the Contango Day following the closing of the books. Securities to bearer and registered debentures are made ex dividend on the day when the dividend is payable, but securities to bearer with coupons payable only abroad may be made ex dividend on the Contango Day, which allows the necessary time for the transmission of the coupon for collection. American shares (both quoted and unquoted) are made ex dividend on the day following that on which they are dealt in ex dividend in New York or other "American" Exchange. In the case of "American" companies which have a London register, if, in any event, the London books have not been closed on the date following that on which the shares are dealt in ex dividend in New York, or other "American" Exchange, the shares must not be made ex dividend until the London books have actually been closed.

## DRAWN SECURITIES

Bargains must be settled in securities which have not been drawn. In case of the erroneous delivery of any drawn securities the buyer, on receipt of undrawn securities and on allowance being made for any drawing or dividend of which he may have lost the benefit, must deliver such securities back to the person who held them at the time of the drawing, or must pay to him any proceeds received from such drawing provided the said securities, or the proceeds thereof, be traced to and remain in the possession and under the control of the buyer, all intermediate members being released from liability. The Committee will not entertain a claim by the seller in respect of the erroneous delivery of drawn securities unless it is made within nine calendar months from the day of

delivery. In the case of securities bought before but delivered on or after the date of the drawing, the seller must pay to the buyer the market value of the drawing. In case of dispute, this is determined by the Secretary of the Share and Loan Department.

### RIGHTS

A buyer is entitled to new securities issued in right of old, but he must specially claim the same in writing from the seller not later than four o'clock or twelve o'clock on Saturday on the day preceding the latest day fixed for the receipt of applications in London. Notwithstanding the provisions of the above clause, the seller, if he is in possession of the new securities, is responsible to his buyer for the same, although claimed by him later than four o'clock on the above named day, and should he not be in possession of the new securities he is bound to render every assistance to the buyer in tracing the same. Claims for rights are claims for the new securities issued in right of old, but when practicable are to be settled by Letters of Renunciation.

Claims for Renunciation Letters are invalid.

A member cannot be required to accept Letters of Renunciation after a quarter before two o'clock on the latest day fixed for the receipt of applications in London. Where Letters of Renunciation are not issued, all payments as and when required by the Company are to be advanced to the seller by the buyer, who may demand a receipt for the same, such payments being for securities to be delivered after leave to deal has been granted.

The Secretary of the Share and Loan Department fixes, on application, a price at which the new securities may be temporarily settled, which may be deducted by the buyer from the purchase money of the old securities until the delivery of the new securities.

(1) When securities on which options are open are made "Ex Rights," an official price will, on application to the Secretary of the Share and Loan Department, be fixed for the Rights.

(2) All Rights in respect of options must be settled by the allowance of such valuation in the option price, unless the member who has given for the call or taken for the put, gives notice in writing on or before the day the securities are made "Ex Rights" that he will claim the new securities, and accept delivery if the option is exercised.

## CHAPTER X

### BUYING-IN AND SELLING-OUT

It has been explained in the previous chapter that the passing of names begins on the second day of the account, and continues on the third or intermediate day. If a ticket reaches the end of the trace, that is, the actual seller, on the Ticket Day, the broker has reasonable time in which to prepare the transfer, send it to his client for signature, and receive it back for delivery on the Account Day. Any undue delay on the part of the buyer in issuing the ticket, or any intermediary in passing on the ticket, renders him liable to any loss arising from selling-out, for if the seller does not receive a ticket by half-past two on the Intermediate Day he may immediately sell out the securities. Although securities deliverable by deed of transfer are dealt in for delivery on the Settlement Day, the buyer cannot insist on delivery on that day. Subject to certain exceptions, the seller of securities deliverable by deed of transfer is allowed ten business days from the Account Day in which to complete delivery. After the expiration of this period, the buyer may attempt to obtain immediate delivery by buying in the securities.

Definitions of the terms "buying-in" and "selling-out" are given in Chapter XVII, and it now remains to discuss the rules in connection with both transactions. It will be noticed that securities passing by delivery are subject to different regulations from those governing securities deliverable by deed of transfer.

The business of buying-in and selling-out must be effected in the open market by the officials of the Buying-in and Selling-out Department, who are appointed by the Committee for General Purposes. They have to trace the transaction to the responsible member and claim the difference from him.

The charges made by the department are full commission as laid down in Appendix 39 of the rules on the first attempt, and commission at one-half that rate on every subsequent attempt.

The Committee have power to suspend the buying-in of securities when circumstances appear to them to make such suspension desirable in the general interest, but the liability of intermediaries

continues during such suspension, unless otherwise determined by the Committee.

In other circumstances, however, intermediaries may be discharged from liability. For the issuer of a ticket who allows two business days from the buying-in day to elapse without buying-in or attempting to buy-in the securities, releases his seller from all liability in respect of the non-delivery of the securities, unless he has waived his right to buy-in at the request or with the consent of his seller, and the holder of the ticket will alone remain responsible to such issuer for the delivery of the securities. The liability of issuers and holders of tickets is not affected by the fact that intermediaries have been released by lapse of time.

In the case of Companies which prepare their own transfers the intermediate seller is released thirteen clear days after the earliest day on which a transfer can be procured. In the case of securities passing by delivery, the issuer of a scrip ticket who has allowed two business days from the Settlement Day, Saturday excepted, to elapse without buying-in or attempting to buy-in, has released his seller from all liability in respect of the non-delivery of the securities, unless he has waived his right at the request or with the consent of his seller, and the holder of the ticket alone remains responsible to the issuer for the delivery of the securities.

When the deliverer of securities deliverable by deed of transfer allows two business days from three o'clock on the Intermediate Day, the third day of the settlement, to elapse without availing himself of his right to sell-out, his buyer is relieved from all loss in cases where the ticket has not been passed in consequence of the declaration of any member as a defaulter. If a seller does not deliver securities within two business days, Saturday excepted, from the buying-in day, the intermediate buyer from whom he received the ticket is released, and the issuer of the ticket alone remains responsible for the payment of the purchase money (Rule 156)

In *Allan v. Graves* (1870), *L R.*, 5 *Q.B.* 478, the facts were that the plaintiff had through stockbrokers, G & G, entered into a contract with M, a jobber, for the sale of shares, as to 100 of which the defendant was a taker-in, and bound to deliver a ticket with a name to M, who, in his turn, was bound to deliver a similar ticket to G and B in the ordinary way, but the usual arrangement was

departed from, and an informal ticket was issued by the defendant without any transferee's name, the plaintiff's brokers agreeing to dispense with this till required, thus waiving their rights to sell-out. The plaintiff's brokers, having prepaid certain calls on the shares, got him to sign transfers in blank. Soon after the settling day the defendant paid the plaintiff's brokers the purchase-money, and they settled with M. On the next Name Day the defendant passed the name of a foreigner, but with no address. The plaintiff's brokers declined to accept the name and returned the ticket on the ground of its being imperfect. The company stopping payment, the transfer was never registered, and, a call having been made on the plaintiff as a contributory, he sued the jobber and obtained judgment for the amount of the call and interest as damages for the breach. The Court thought that, although the transfer in blank put it in the defendant's power to fill up the blank with any name he pleased, it would be a great deal too much to assume from this that the brokers agreed to take without inquiry whatever name the defendant liked, even if the brokers could have bound the plaintiff by so unreasonable an agreement. Where the contract is made with the words "with registration guaranteed," it means that the jobber will either register himself, or will find a purchaser who will accept and register. Lord Hatherley, L C, said, in a case in which the validity of this custom and practice was discussed, "it was reasonable that a custom and practice followed so long on the Stock Exchange should be recognized, and that such contracts should not be completed until the jobber had himself paid for the shares and registered the transfer, or had procured a purchaser to do so" (*Cruse v Paine* (1869), 4 Ch App. 441).

Inscribed stock, which is not subject to an *ad valorem* stamp duty, which is bought for a specified day and is not then delivered, may be bought-in without notice on the following day at eleven o'clock, Saturday excepted, and the member causing the default must pay any loss incurred.

If securities deliverable by deed of transfer or inscribed stock, subject to an *ad valorem* stamp duty, are not delivered within ten days, the issuer of the ticket may buy-in the security against the seller on the *tenth day* after the Account Day or any subsequent day, Saturday excepted. In the case of Companies preparing their own transfers, securities may be bought-in on the eleventh day



after the earliest date on which a transfer can be procured or on any subsequent day, Saturday excepted One hour's public notice of such buying-in must be posted in the Stock Exchange, the notice to be posted not later than half-past twelve o'clock Buying-in takes place between half-past one and three o'clock

The name into which the securities are to be transferred must be stated in the order to buy-in if required by the manager of the Buying-in and Selling-out Department The loss occasioned by such buying-in must be borne by the ultimate seller unless he can prove that there has been undue delay in the passing of the ticket on the part of any member, who in that case becomes liable Securities which are bought for any day except the Account Day and are not delivered by a quarter before two o'clock, Saturday excepted, may be bought-in on the following or any subsequent day, Saturday excepted, without notice, and any loss occasioned by such buying-in must be borne by the seller Securities bought-in and not delivered by one o'clock on the following day, Saturday excepted, may be again bought-in for immediate delivery, Saturday excepted, without further notice and any loss must be paid by the member causing such further buying-in

Securities passing by delivery bought for the Account Day which are not delivered by a quarter before two o'clock, may be bought-in on the following or any subsequent day, Saturday excepted, and any loss occasioned by such buying-in shall be borne by the seller

One hour's public notice of such buying-in must be posted in the Stock Exchange, the notice to be posted not later than half-past twelve o'clock.

If such securities are bought for any day except the Account Day and not delivered by a quarter before two o'clock, they may be bought-in on the same or any subsequent day, Saturday excepted, without notice, and any loss occasioned by such buying-in must be borne by the seller.

As in the case of securities deliverable by deed of transfer, buying-in of securities passing by delivery takes place between half-past one and three o'clock.

The loss occasioned by such buying-in must be borne by the member who has failed to deliver the securities by a quarter before two o'clock on the previous day, Saturday excepted Securities which are bought-in and not delivered by one o'clock on the following

day, Saturday excepted, may be again bought-in for immediate delivery, Saturday excepted, without further notice, and any loss must be paid by the member causing such further buying-in.

No securities can be bought-in while they are known to be out of the control of the seller for the payment of calls or the receipt of interest, dividends or bonus

It not infrequently happens that the official of the Buying-in and Selling-out Department is unable to execute an order to buy-in. In that event the notice of such buying-in must remain on the General Notice Board, and the official, so long as the order remains in force, must daily renew the attempt to buy in, Saturday excepted, and when so instructed must bid for the stock. A holder of a ticket must, before eleven o'clock on the buying-in day, notify the payer that he holds it. In the case of inscribed stock sold for a specified day, the seller of such stock who has not received a ticket by half-past twelve o'clock, or half-past eleven o'clock on Saturday, may sell out against the buyer. If such ticket has not been regularly issued before eleven o'clock, the issuer thereof is responsible for any loss occasioned by the selling-out. Should the ticket have been regularly put in circulation, the holder at half-past twelve o'clock, or half-past eleven o'clock on Saturday, becomes liable.

The rules relating to the selling-out of registered securities, that is to say securities deliverable by deed of transfer, are as follows—

If the deliverer does not receive a ticket by half-past two o'clock on the intermediate day, the third day of the settlement, he may sell out such securities up to three o'clock, or twelve o'clock on Saturday, on that day or any subsequent day. In the case of a bargain for a specified date, the deliverer who does not receive a ticket by half-past two, or half-past eleven on Saturday, on the day before such specified date, may sell out the securities up to three o'clock, or twelve o'clock on Saturdays, on that day or any subsequent day. If the security is one of those undertaken by the Settlement Department, written notice stating from whom a ticket is required must be given to the Department at least one hour before such selling-out, and in no case may such securities be sold out before twelve o'clock, or half-past eleven o'clock on Saturdays. If a ticket has not been regularly issued before three o'clock on the Ticket Day the issuer becomes responsible for any loss occasioned

the holder of it at the following times becomes responsible for selling-out, unless he can prove undue delay in the passing of the ticket—

(a) For selling-out on the Intermediate Day the holder of the ticket at two o'clock on that day.

(b) For selling-out on the Account Day

(1) Of securities which are subject to arrangement by the Settlement Department, the holder of the ticket at three o'clock on the Intermediate Day, unless such ticket was in the Settlement Department at three o'clock, in which case the holder at five o'clock becomes liable.

(2) Of securities not subject to arrangement by the Settlement Department, the holder of the ticket at twelve o'clock on the Intermediate Day

(c) For selling-out on any day after the Account Day—the holder of the ticket at three o'clock on the previous day, or twelve o'clock on Saturday.

The release of intermediaries takes place in the case of securities deliverable by deed of transfer, when the deliverer allows two business days from three o'clock on the Intermediate Day to elapse without availing himself of his right to sell-out. His buyer is then relieved from all loss in cases where the ticket has not been passed in consequence of the declaration of any member as a defaulter. If a seller fails to deliver securities within two business days, Saturday excepted, from the buying-in day, the intermediate buyer from whom he received the ticket is released, and the issuer of the ticket alone remains responsible for the payment of the purchase money.

Where securities are sold out, if a ticket is not given within half-an-hour after the time of sale, the transfer may be made into the name of the buyer. A member who has sold bearer securities for a specified day may sell-out the same on that day, Saturday excepted, if the buyer is not prepared to pay for them by a quarter before two o'clock, and the buyer will then become liable for any loss incurred.

## CHAPTER XI

### POSITION OF SELLER AND BUYER PRIOR TO EXECUTION OF TRANSFER BY THE BUYER

By delivery of the share certificates and the transfer, the vendor has done all that it is incumbent upon him to do. No responsibility rests upon him to see that the buyer's name is registered in the books of the company. This obligation falls upon the buyer. The instrument of transfer is, according to Stock Exchange custom, prepared by the seller's broker. No claim arises at law for the payment of the purchase-money till the deed of transfer has been tendered to the purchaser unless it be accompanied by a certificate, or unless it be officially stated that the certificate is at the office of the company (*Stephens v De Medina* (1843), 4 Q.B. 422; *Bowlby v. Bell* (1846), 3 C.B. 284; *Franklyn v. Lamond* (1847), 4 C.B. 637). A certificate under the common seal of a company specifying any shares or stock held by any member is prima facie evidence of the title of the member to the shares or stock (Sect. 68, Companies Act, 1929). The Share and Loan Department carries out the certification business on the Stock Exchange. The procedure has already been set out. A certificate for this purpose may be given by a company, and in cases where a company carries out its own certification a certificate is generally in the form "certificate lodged," written on the side of the deed, signed by the Secretary of the company. The origin of the practice of certification was explained by Lindley, L J, in *Bishop v The Balks Consolidated Co* (1890), 25 Q.B.D. 512, at p 519. He said: "The practice of giving 'certifications' has arisen from the difficulty felt by members of the Stock Exchange in settling their accounts as buyers and sellers of shares where the seller's certificate of title does not accompany his transfer. If the seller's certificate includes more shares than he sells, he does not deliver it to the buyer with the transfer, but the seller produces his certificate and the transfer to an officer of the company, and he 'certificates' the transfer; and buyers and their brokers act on the faith of this 'certification,' just as they would if the certificate produced to the company had been produced to and lodged with themselves. No fee is paid for a 'certification.'

In every case the 'certification' must be read in connection with the transfer on which it is put. The object of the 'certification' is to enable the transferor to satisfy his transferee that he, the transferor, can make a good title to the shares mentioned in the transfer. This he can only do if he is himself the registered owner of the shares mentioned in the transfer, or if he has a transfer from the registered owner to himself, or to someone through whom he claims by a transfer or a series of transfers. The 'certification' is therefore, to be of any use at all, must amount to a representation that the transferor has produced to the person certifying such documents as on the face of them show a *prima facie* title in the transferor to transfer the shares mentioned in the transfer; or, in other words, that the transferor has produced to the person certifying either what purports to be a certificate of the title of the transferor to the shares mentioned in the transfer or the equivalent of such a document, in other words, what purports to be a certificate of the title of someone else to these shares, and one or more documents purporting to transfer those shares from such person to the transferor. . . . Certification means no more nor can it reasonably be supposed to mean more. The certification is made by the secretary or some other officer, who has no time to do more than look at the documents produced to him. If, in business language, they are 'in order,' i.e. if they are right on the face of them, he certifies; if they are not, he refuses to certify. But he has no means of ascertaining and no time to inquire whether the documents produced to him are genuine or not, nor whether the various transfers are valid or invalid in point of law. He acts on what he sees, and there is no pretence for saying that he does more or is understood by business men to do more. He does not warrant the title of the transferor, nor the validity in point of law of the various documents which establish his title. That this is the true view of the effect of a certification will be apparent, if it is remembered that certifications are sometimes made by an official of the Stock Exchange and not by any officer of the company, the shares in which are the subject of transfer." The practice alluded to by Lindley, L. J., will be found in Stock Exchange Rule 129 (2) which provides that if the seller has a larger certificate than the amount of stock conveyed, or only one certificate representing stock conveyed by two or more transfer deeds, the certificate may be deposited with the

Secretary of the Share and Loan Department of the Stock Exchange, who will forward it to the office of the company and certify to the effect on the transfer deed. This is then good delivery, but neither the Manager nor Committee of the Stock Exchange render themselves liable for the due or accurate performance of these duties. The Manager and Committee hold themselves irresponsible in respect of the execution or of the mis-execution or non-execution of these duties

As stated in the previous chapter, the seller is allowed, generally, ten days in which to deliver the shares to the buyer. This concession gives him time to obtain the signature or signatures of the seller or sellers, who may be abroad or in different places, and to have the transfer deed certified if necessary. Time is also said to be conceded to the selling broker for the purpose of enabling him to object to the name of the proposed transferee, and to ask for another name in substitution. In practice, it is rare to find transfers made out in the name of the original contractor. Thus, to give an illustration—

A, a broker, on behalf of a principal, sells shares to B, a jobber. The jobber does not necessarily complete the transaction by taking the shares into his own name, as he may have resold them before the time fixed for delivery to C, another broker. In this case the name of C's principal will be passed to A as the transferee. Should the jobber not have resold them, it does not follow that he will have them transferred into his own name, for he will probably take them up in the name of a nominee. It will be seen, therefore, that the seller, in most cases, is unaware of the proposed transferee's position in life and, therefore, if he so wishes, he has ten days in which to make inquiries (*Nickalls v. Merry* (1875), *L R*, 7 *H L* 530). It will be seen that the transaction opens up some legal questions which may be of considerable importance: (1) *The validity of the custom and its effect*, (2) *the extent of the seller's right to object to the proposed transferee*; (3) *the extent of the liability of the jobber as the original contractor, with whom the seller made the bargain*

#### I. *The validity of the custom and its effect.*

The custom has been held to be valid in *Coles v Bristowe* (1868), 4 *Ch. App* 3. There on the same day jobbers had given the vendors' brokers the names of seventeen persons as ultimate purchasers of

shares, the shares to be transferred in different parcels, the brokers to the vendors having prepared seventeen deeds of transfer, procured their execution by the vendors, and on settling day delivered them and the share certificates to the jobber who paid the price agreed upon by the seventeen transferees, who, through their brokers paid the purchase-money to the jobbers and received but did not execute the deeds of transfer. The vendors subsequently having to pay calls sued the jobbers. The jobbers were held not liable, as they had completed their contract according to the custom.

The Lord Chancellor said (after commenting on the nature of the evidence called as to the Stock Exchange custom) "According to this, the contract of the jobber is that at settling day he will either take the shares himself, in which case he would, of course, be bound to accept and register a transfer and to indemnify, or he will give the name or names of one or more transferees, to which no reasonable objection can be made, who will accept and pay for the shares. The jobber may perform either alternative, and if, electing to perform the latter alternative, he sends in names which are accepted, and to which transfers are executed, and these transfers are taken and paid for by the transferees or their brokers, the jobber is then and at that stage relieved from further liability, and the liability to register and indemnify is shifted to the transferees."

In *Grissell v. Bristowe* (1868), *L.R.*, 4 C P. 37, the same usage was held reasonable. In *Maxted v. Paine* (1871), *L.R.*, 6 Ex. 132, the usage was again approved, and in the absence of fraud held reasonable. It was finally approved in the case of *Nickalls v. Merry* (1875), *L.R.*, 7 H L. 530, in the House of Lords.

The usage or custom being a reasonable one, what is the effect of it? Does it create a novation or not?

"Novation, as I understand it, means this," said Lord Selborne, *L.C.* (*Scarfe v. Jardine* (1882), 7 App. Cas. 351), "the term being derived from the civil law that there being a contract in existence, some new contract is substituted for it, either between the same parties (for that might be) or between different parties, the consideration mutually being the discharge of the old contract." In *Maxted v. Paine* (1871), *L.R.*, 6 Ex. 132, 173, Blackburn, J., said: "*Coles v. Bristowe* and *Grissell v. Bristowe* seem to me to determine that when the transfers have been delivered to the issuing member

and the price is fully paid, there is a novation which frees the member who merely passed the ticket from further liability, and *Coles v. Bristowe* further determines that this novation does not arise from the voluntary act of the seller in accepting the substituted liability of a third party in accord and satisfaction of the contract." Coles had in that case taken alarm and given his broker instructions to complete the contract with Bristowe direct, and not to recognize any sub-purchasers except as nominees of Bristowe. The evidence on the subject will be found in the report of *Coles v. Bristowe*, L.R., 6 Eq., at p 151 At p 14 of the report of the case on appeal (4 Ch. App.) Lord Cairns deals with this as an ineffectual attempt to vary a contract already made The case therefore decides that it is part of the contract for a sale for the account that where the price has been paid and the transfers executed to the nominees of the member who issues the ticket, and the transfers have been delivered to the member who issues the ticket, the member passing the ticket is free from responsibility. That decision and the decision of the Exchequer Chamber in *Grissell v. Bristowe* conclude the question so far except in the House of Lords "We, sitting in a Court of co-ordinate jurisdiction, must hold that there is a novation, and it only remains open to consider what that novation is, and subject to what conditions. . . ." "It will be seen," continued Mr. Justice Blackburn, "that in my opinion the effect of the usage is that the member issuing the ticket is much in the position of one who has issued to his immediate contractor a promissory note promising to perform to the assignee of that promissory note those duties which he would otherwise have had to perform to that immediate contractor. If there were on custom, the person continuing to take shares would promise to accept from his vendor a transfer, and to indemnify against future calls. The contract on the Stock Exchange for the account is to supply him on the name day with a ticket, which he may either hold or pass on. Each member through whose hands the ticket passes is in a position analogous to the indorsee of that note, and the ultimate assignee who is actually to deliver the shares is in a position analogous to the holder of that note, and I think that the effect of the custom is that unless what resembles notice of the dishonour of this note is given within fifteen days the intermediate indorsees of the ticket are released and then, and not till then, there is a novation, in my opinion, between the two members of the Stock Exchange, who



are in the position of holders of that ticket and issuer of it." (See also *Hodgkinson v Kelly* (1868), *L R*, 6 *Eq* 496) There being a novation then between the two members of the Stock Exchange, since they are by law, agents for their principals, they create the same contractual relationship between their principals.

Whether this is the correct view may be doubted, for Lord Justice Mellish in *Nickalls v Merry, Merry v Nickalls* (1872), *L R*, 7 *Ch.* 755, says "The ticket is issued by the purchaser's broker, and it appears to me the broker who issues that ticket professes to be the agent of the man whose name is on the ticket I cannot agree with Mr Justice Blackburn that he offers to make a contract on his own account. It appears to me that what he does is this: He represents that the person whose name is on the ticket is his principal, that he has authority to bind him, that he is a person capable of accepting the shares, and that he, the broker, has authority to accept the transfer on his account so as to bind him."

## II. *The extent of the seller's right to object*

It has been indicated already that the seller has a reasonable time to object to a name submitted to him. The right to object, however, is a limited one, and is probably confined to the incapacity of the proposed transferee.

## III. *The extent of the liability of the jobber or original contractor.*

Nevertheless, although no objection has been taken, the jobber or contractor has not completed his contract by submitting any name, for he must submit the name of a person who is competent to perform the contract, and if he does not, he will remain liable. Thus, where shares had been sold by a broker to a member of the Stock Exchange, a jobber, and on the settling day the jobber passed the name of an infant as the buyer without objection being made, the infant paying the price of the shares and the seller executing the transfer, the jobber, two years afterwards, on the facts being discovered, the transfer never having been registered, was held to be still liable, since he had not passed the name of a person competent to buy. So again where a broker passed the name of a person who had in fact given him no authority, although he believed that he

had (*Maxted v. Paine* (1869), *L R.*, 4 *Ex* 81) Other persons not competent would be foreigners resident out of the jurisdiction (*Allen v Graves* (1870), *L R.*, 5 *Q B* 478), illegal companies (*Josephs v Pebrer* (1825), 3 *B & C* 639), companies purchasers of their own shares (*London, Hamburg and Continental Exchange Bank, Zulueeta's claim* (1870), *L R.*, 5 *Ch.* 444, *Trevor v Whitworth* (1887), 12 *App Cas* 409) In fact it is a reasonable precaution to take, whenever the name of a company is passed as the deliverer of partly-paid shares, to find out whether such company is empowered to hold shares in another company (*In re Contract Corporation* (1867), *L R.*, 2 *Ch* 95) The name of a lunatic would not be a good name (see *Maxted v Paine* (1869), 21 *L T* 535, *Nickalls v Eaton* (1870), 23 *L T* 689, *Dent v Nickalls* (1873), 29 *L.T.* 536)

It will be seen that the jobber will remain liable for non-fulfilment of his contract in passing the name of a person who is not competent to contract as in the instances cited above, but this is only the case when the transfer is not executed by the transferee Where the transfer is executed he would no longer be liable even though the transferee subsequently turned out to be a hopelessly impecunious person (*Maxted v Paine* (1871), *L R* 6 *Ex* 132).

The remedies of a seller against parties other than the jobbers where a transferee refuses or neglects to have his name registered or the company decline to place him on the register, are as follows against his own broker, where the broker has neglected to make inquiries as to the solvency of the name submitted (*Maxted v. Paine* (1871), *L R.*, 6 *Ex* 132, *Evans v Wood* (1867), *L.R.*, 5 *Eq* 9, *Castellan v Hobson* (1870), *L R.*, 10 *Eq* 47), in which case an action would lie for negligence in not instituting proper inquiries. In other cases it would lie against the real purchaser where a man of straw as nominee had been put forward, as in *Castellan v. Hobson* (1870), *L.R.*, 10 *Eq* 47 In that case the plaintiff had sold, through his broker, shares at a discount to jobbers, and the defendant, through his brokers, had purchased them The defendant instructed his brokers to give the name of one of his workmen, Banks, as the purchaser, which they accordingly did, but the workman's name was never registered owing to the subsequent stoppage of the company On a bill being filed in equity praying for a declaration that the plaintiff should be declared a trustee of the shares for the

defendant, Vice-Chancellor James said: "I think the Court would have found its way to say, if Castellan has a right to indemnity over from Banks, Banks has a right to indemnity over against Hobson, and it will pass over the intermediate man and make Hobson do that which he is bound to do. But the real answer is, that it is not a question of vendor and purchaser, it is not a question of specific performance at all. it is a question of trustee and *cestui que trust*. The result of the transaction is that Castellan remains the legal owner of the shares without any beneficial interest in them. As legal owner he has remained exposed to liabilities, and he is entitled to indemnity from the real equitable owner of the shares, for whom he was trustee. For whom then is he trustee? He is trustee for Hobson and not for Banks. Banks by the transaction has never acquired any legal or equitable right or interest whatever in these shares. He is a mere name. In truth, cases have frequently occurred in this Court in which what is called the intermediate trustee of a mere equity has been disregarded altogether. The cases are collected in Lewin on Trusts. Mr Lewin says the intermediate trustee of a mere equity need not, except under special circumstances, be made a party, and quotes cases to support that proposition. That is to say, a man who has no property, who has no right to receive anything in respect of the shares, who has no powers of disposition over them, is a mere name. He may be an agent, he may be an attorney, but he is not the owner either as a trustee or in any sense whatever of the shares. Castellan, therefore, being the legal owner, and Hobson being the beneficial owner, and Banks being a mere name interposed between the two, Hobson, the real beneficial owner, the *cestui que trust* for whom Castellan is trustee, is bound to indemnify him against the calls which have been made."

The authority of this case, however, may now be doubted, and it is questionable how far it can be accepted as an authority since the decisions in *Coles v Bristowe* (1868), 4 Ch App 3, and *Maxted v Paine* (1871), L. R., 6 Ex. 133, for it would appear that the plaintiff's original contract of sale was liable to be extinguished by a new contract, which he agreed to enter into with a nominee, and that by executing the transfer to Banks and accepting him as a purchaser he did enter into such new contract, and it would seem to follow that he could look to him and to no one else for

indemnity. The non-registration of the transfer would also seem to be immaterial according to more recent cases.

Both vendors and purchasers are entitled at law to obtain specific performance of their contracts, but the rule is subject to this limitation, that specific performance will only be decreed in securities which are not generally dealt in on the market. Where securities are freely dealt in on the market, since the buyer can repurchase and sue the vendor for damages for breach of contract, as there is no reason for ordering the contracts to be specifically performed, specific performance will not usually be decreed. It was long ago decided in the case of *Cuddee v. Rutter* (1720), 1 *P. Wms.* 570, that an action for damages only would lie where the dealing had taken place in current securities, and that it was unnecessary to invoke the aid of the Court of Chancery to specifically enforce contracts for the sale of these.

Where, however, the contract is for the sale of non-current securities not usually dealt in, and which the purchaser would find a difficulty in obtaining, an action for specific performance of the contract will lie.

The right of a vendor to specific performance is greater than the right of a purchaser, for he is in a worse position, as, for instance, where he has sold shares for the express purpose of ridding himself of a liability on them for calls, for if the purchaser refuses to take this burden upon himself and complete the contract the vendor will be liable to pay the calls. Thus, an agreement has been enforced compelling a purchaser to accept a transfer of railway shares on which nothing had been paid as an agreement for a valuable consideration in consequence of the liabilities attaching thereto to which the purchaser was subjected, and from which the vendor would be released by the transfer (*Cheale v. Kenward* (1858), 3 *De G. & J.*, 27). In *Duncuft v. Albrecht* (1841), 12 *Sim* 189, 190, Vice-Chancellor Shadwell said "There is not any sort of analogy between a quantity of £3 per cent stock or any other stock of that description, which is always to be had by any person who chooses to apply for it in the market, and a certain number of railway shares of a particular description, which railway shares are limited in number and are not always to be had in the market."

Where specific performance is the proper remedy, it will be ordered notwithstanding that a transfer has not been executed (*Musgrave &*

*Hart's Case* (1867), *L. R.*, 5 *Eq* 194). There the application was made at the instance of Messrs. Musgrave, the registered holders of thirty shares in Overend, Gurney & Co., Limited, asking that the register of the Company might be rectified by registering James Hart as the owner of those shares in the place of the applicants. It appeared that the Articles of Association required that transfers of shares should be executed by both parties, and Hart had not executed the transfer, but had given the name of a servant, an insolvent person, as the purchaser; she also had not executed the transfer. The application failed because the transfer had not been executed by the transferee. Vice-Chancellor Malins expressed the opinion, however, that Messrs. Musgrave could have obtained a decree for specific performance of the contract against Hart.

In *Iredell v. General Securities Corp'n, Ltd.* (1916), 33 *T L R.* 67, the plaintiff bought 600 shares in a company, the shares to be delivered by the defendants by a certain date. The contract, on the payment of a certain sum, was carried over to a later date. Meanwhile the company went into liquidation and the liquidator refused to recognize the transfers. As the defendants could not give registered share certificates when delivery of the shares became due, they offered bearer certificates and the plaintiff replied that the contract should be cancelled. In an action to recover the sum paid, the Court held that the contract was for the sale of registered shares and the defendants were not entitled to rely on the fact that the plaintiff considered the contract cancelled, therefore the plaintiff was entitled to recover.

Where directors of a company had a discretionary power of refusing to register a transfer, if they disapproved of the transferee, and a transfer which was executed before was not left for registration until after the commencement of the winding-up of the company, it was decided that in the absence of evidence that the transferee was objectionable it must be presumed that the directors would have registered the transfer (*Evans v. Wood* (1867), *L R.*, 5 *Eq* 9). In *Paine v. Hutchinson* (1868), 3 *Ch. App.* 388, specific performance was ordered at the suit of the plaintiff's jobbers against the ultimate purchaser, who paid the purchase-money, but declined to have the shares registered on the ground that he had purchased them on another person's account, and never intended to have them registered in his name, nor authorized the giving his name as

transferee, and that as the shares had been sold without any special guarantee that the transfer should be executed by the purchaser, he was not bound to have them registered. The Articles of Association of the Company gave the directors power to refuse to register a transferee if they considered him to be an irresponsible person. The defendant, however, did not answer this description, and the company was wound up afterwards.

V. C. Selwyn said "The contract, it has been clearly proved, would have been carried into execution but for the simple circumstance that the present appellant (the defendant) refused to accept the transfer upon a ground which in our judgment he was not justified in taking, that is, that in the absence of what is called a special guarantee, although he was bound to pay the purchase-money, he was not bound to take a transfer. That we think is wholly groundless. The case of *Birmingham v. Sheridan* (1864), 33 *Beav* 660, has been explained by the Master of the Rolls himself in the subsequent case of *Evans v. Wood* (1867), *L R*, 5 *Eq* 9, where he says 'I held, and I think rightly held, that where it was unfavourable for a person to be put upon the register, the contract could not be carried into execution, because part of the contract was that the name of the purchaser should be put upon the register, and that part could not be performed.' But this case differs from that for this reason, that the defendant, not from any intentional misconduct on his part, but owing to his accidental absence from home, did not send up the transfer to be registered before the 11th of May, which, if he had done, it would have arrived in time. I do not wish to use any harsh words, but certainly here the whole of the delay was occasioned by the contention on the part of the appellant in which we think he wholly fails."

Specific performance of the agreement was accordingly ordered.

In a winding-up, power is frequently given to company directors or liquidators to refuse registration, but this is no reason why the Court should not order it be done; since the contract between transferor and transferee is valid, and independent of registration, and in no way requires the consent of the directors to sanction it (*Robins v. Edwards* (1867), 15 *W R*. 1065).

In the *Odessa Tramways Co. v. Mendel* (1878), 8 *Ch.D* 235, a piecemeal agreement was ordered to be performed and the defendant was not allowed to set up a case of fraud for the purpose of making

invalid the agreement, which was sought to be specifically enforced, as he had acted in collusion with the directors.

Specific performance, however, will not be granted where shares in a company which has never been formed are sold, since the shares are not in existence (*Kempson v. Saunders* (1826), 4 Bing. 5).

## CHAPTER XII

### TRANSFER

BEARER securities, as previously pointed out, pass by delivery. There is a large class of securities, however, which are transferable by entry or inscription in the books of the Bank of England, or of some other bank, where they were issued, or at the offices of the Crown Agents for the Colonies. These are British Government Stocks, Indian Stocks, Corporation Stocks, Dominion and Colonial Government Stocks, etc. No actual certificate of title is issued to holders of these securities, but the names and amounts of their holdings are inscribed in a register kept for that purpose. A document known as a stock receipt is issued, but this is of no negotiable value. The stocks are transferred free of charge on certain days, known as transfer days, which are days fixed by the Bank of England and other agents. If a transfer is made on other days a fee is charged.

The method of transferring inscribed stocks is practically the same at all banks, but for purposes of explanation let us take the regulations governing transfers at the Bank of England.

In the Consol market of the Stock Exchange tickets pass in respect of purchases and sales, but, unlike the other markets, they do not pass through so many hands, as the majority of transfers, particularly in British Government Stocks, Indian Stocks, and Colonial Government Stocks, are made direct from client to jobber, and *vice versa*. In these stocks a jobber always keeps a balance in his own, or his nominee's, name, and stock sold by him to a broker is transferred direct from his own or his nominee's name into the name of the broker's client.

Let us presume that Y, a broker, has purchased for his client £1,000 per cent War Stock, 1929-47, which his client wishes to have in the form of inscribed stock. He will obtain from the Bank of England a ticket and stock receipt, specimens of both of which are given on pages 235 and 236. On the ticket he will insert the amount of the stock purchased, the description of the stock, the amount of the consideration, and the full name, address, and description of the purchaser. On the stock receipt he will insert the full name of the



purchaser, the consideration money, the amount and description of the stock. Having done this he hands both documents to the jobber, who completes the ticket by filling in the name and address of the seller, lodges it with the Bank of England, and in due course completes the transfer.

The stock receipt he delivers to the broker as evidence that the stock has been inscribed in the purchaser's name. In preparing the ticket the broker should state whether the name or account into which the stock is to be transferred is an old or new account (See note on the ticket CR o/A or N/A.) If an old account, care should be taken to see that the particulars given are identical with those already registered in the Bank's books, otherwise the transfer will not be passed. The stock receipt, it will be noticed, is a form of receipt signed by the seller for a certain consideration paid by the purchaser for the stock transferred, but it is not evidence of title and is of no negotiable value. The buyer can, however, if he so wishes, accept either personally or by his attorney, any transfer made in his favour. For this purpose he, or his attorney, must attend at the Bank of England between the hours of 9 a.m. and 3.30 p.m. on Monday to Friday, or 9 a.m. and 12 noon on Saturday, bringing with him the stock receipt. He must be accompanied by his broker for purposes of identification. Should this be inconvenient he can obtain confirmation of the fact of the inscription by forwarding the stock receipt, with a request for confirmation to the Chief Accountant, Bank of England, E C.2.

Copies of a transfer ticket and a stock receipt are shown on pages 235 and 236.

In the case of a sale of stock by a broker he will complete the ticket and stock receipt, with the exception of the buyer's name, care being taken to see that the name, address, and description of the seller are the same as those registered in the Bank's books. He will then obtain from the jobber the name, address, and description into which the stock is to be transferred, and after inserting this in the ticket will lodge the ticket with the Bank of England. In order that the transfer may be effected on the same day, the ticket must be lodged before 11.30 a.m. without payment of any fee or between 11.30 a.m. and 2 p.m. on payment of a fee of 2s. 6d. A reasonable time having been allowed for the Bank to verify the particulars on the ticket and to prepare the transfer, the seller will attend at the

1

**PLEASE WRITE DISTINCTLY.**

*The Date must be inserted in Words and not in Figures*

No

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We

For Dr

For Cr

B Ver S T Ver

this  
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One Thousand Nine Hundred and Thirty  
do ASSIGN and TRANSFER

Day  
in the Year of our Lord

£ s d

Interest or Share in the Capital of

Examined by

forming part of the National Debt, transferable at the BANK OF  
ENGLAND, together with the proportional Dividend attending the same,  
unto

Witness to the Identity of

CR o/a or n/a

Executors, Administrators or Assigns

Witness Hand

WITNESS

Put forward by—

do freely and voluntarily ACCEPT the above Interest or  
Share transferred to

WITNESS

19 of

f. s. d.

Should it be desired that the Dividends be paid to a Banker, Firm, or person other than the **FIRST, OR SOLE, STOCKHOLDER**, the necessary instructions must be lodged at the Bank.  
Fresh instructions are not required upon an alteration in the amount of an existing account.

Bank to complete the transaction. If he is not personally known to the Bank's officials, he must be accompanied by his broker or banker in order that his identity may be established. The form of transfer having already been prepared by the Bank in the transfer book, it is signed by the seller and by the broker or banker as identifying the person signing as the person named in the transfer as seller. The seller then signs the stock receipt, the Bank of England official adds his signature as witness, and the transfer is completed.

It is not always convenient for a stockholder to attend personally to transfer stock, and in this case an attorney may be appointed for the purpose. It is the usual practice to appoint as attorney a member of the firm of stockbrokers acting on behalf of the stockholder. For the purpose of obtaining a power of attorney a special form of application must be obtained from the Bank of England. A specimen of this is given later on. Details must be given of the full name, address, and description of the stockholder, as registered in the Bank's books, and where the registered address is not his present address the latter also must be given. The name, address, and description of the person to be appointed as attorney, and the purpose for which the power is required, must also be stated. This application is lodged with the Power of Attorney office of the Bank of England before 11 30 a m or 10.15 a m. on Saturday, and if the particulars are found to agree with the records of the Bank a form of Power of Attorney is prepared by the Bank and collected by the broker later in the day. This is sent to the stockholder to be signed and witnessed. The back of the Power of Attorney contains full instructions regarding its execution, and it should be noted that if any alteration whatsoever be made on the face of the document, a statement must be made on the back to the effect that such alteration was made before the deed was executed. This statement must be signed by all stockholders and witnesses. At the same time that the Power of Attorney is issued by the Bank a notice is sent to the stockholder informing him that such application has been made. The circular is sent to the address registered in the Bank's books, unless intimation has been given on the application form to the effect that the stockholder's present address is different. A reply to this notice is only required in the event of the stockholder objecting to the Power of Attorney being granted, unless the notice

is sent to a c/o address, in which case a reply is necessary before the Power of Attorney can be acted on. On receipt of the Power of Attorney, duly signed and witnessed, the broker lodges it with the Bank of England before 12 30 p.m. It is then examined, and if found to be in order the attorney may act on it and transfer the stock on the following day. Should it be desired to transfer the stock on the same day that the Power of Attorney is lodged with the Bank, as, for instance, in a case where the proceeds of the sale are urgently needed in order to meet some other obligation, a declaration to this effect should be made on the back of the Power of Attorney, and signed by the attorney. The document, instead of being placed in the executed Power's box in the usual manner, should be handed to an official of the Bank, together with a fee of five shillings. The Bank will then allow the attorney to make the transfer on the same day. The ticket is lodged in the manner before described, the only difference being that where a transfer is to be made by the stockholder personally, the words "personal transfer" should follow the particulars given of the name, address, and description of the stockholder, and where the transfer is to be made by an attorney, the phrase "by attorney" or "by Atty." should be used. It has been stated that an application for a Power of Attorney should be lodged before 11.30 a.m. or 10.15 a.m. on Saturday, but applications may be lodged up to 1 30 p.m. (11 a.m. on Saturday) on payment of a fee of 2s. 6d. for each application. Applications must be lodged at the Bank by hand, as no application made through the post will be attended to.

Power of Attorney for British Government and Guaranteed Securities and India Stocks are issued free of charge, for Transvaal 3 per cent Stocks 10s. is charged, while for other stocks at the Bank of England the fee is 11s. 6d.—10s. of this being stamp duty.

A copy of an application form for Power of Attorney used by the Bank of England is shown on page 239.

Notwithstanding the elaborate precautions which were taken to prevent fraud, an ingenious fraud was once perpetrated upon the Bank, which gave rise to a case ultimately taken to the House of Lords (*Starkey v The Bank of England*, [1903] A.C. 114, affirming *Olver v. The Bank of England*, [1902] 1 Ch. 610. In the latter case an amount of Consols and Bank Stock stood in the joint names of Edgar Oliver and W. F. Oliver, the latter being a solicitor who was

(87)

Powers of Attorney applied for before 11.30 a.m. (Saturday, 10.15 a.m.), will be ready for delivery the same day. They will, however, be ready the same day if applied for by 1.30 p.m. (Saturday, 11 a.m.) on payment of a fee of 2s. 6d. each.

Applications made through the post cannot be attended to.

Executed Powers presented for examination at the *Power of Attorney Office* before 12.30 p.m. (10.15 a.m. on Saturday), and found to be in order, may be acted upon on the following day.

\* Insert Name of Stock

† Names, residences, and qualities of stockholders to be written at length and legibly

PLEASE WRITE DISTINCTLY

† Names, residences, and qualities of attorney, to be written at length and legibly

§ When the Power is for transferring stock to a Specified Account it should be stated whether the Account be old or new

[In Survivorship Accounts the ORDER of the Names in the Bank Books must be stated.]

### APPLICATION for POWER OF ATTORNEY in\*

Names of Party applying for Power	Residence
Names of Stockholders	Residence and Quality or Occupation as in Bank Books
From †	When the address registered in the Bank Books is not the present address the latter must be given here
To †	

For the purpose of §

in the habit of instructing a firm of stockbrokers in the course of his business. He instructed this firm to sell out the Consols and Bank Stock, and to remit him the proceeds. This they did, and applied in the usual way for a Power of Attorney to enable them to transfer it. Having received no reply to their circular, the Bank did not imagine that anything was wrong. They compared the signature of Edgar Oliver with a previous signature, and accordingly passed it as in order. The brokers having signed the demand for the Power, the stock was transferred in pursuance of the Power. It subsequently came to pass that Edgar Oliver discovered that his stock had been sold, and he sued the Bank. The Bank claimed to be indemnified by the brokers, who had signed the demand, and succeeded, the brokers being held liable to indemnify the Bank, who had been called upon to replace the amount.

Transfers must be made on Monday, Tuesday, Wednesday, Thursday, or Friday between the hours of 10 30 a.m. and 2 p.m. If not made between these hours fresh instructions must be lodged with the Bank. Transfers may also be made on Saturday between 10 30 a.m. and 11 30 a.m. on payment of a fee of 2s. 6d.

The fee for transferring Bank of England stock is £1 (including stamp duty) for transfers on sale or operating as voluntary dispositions *inter vivos*, and for all other transfers 12s.

Stocks may be registered in the names of more than four persons or a corporate body. At one time it was not possible to have more than four designated accounts in the same name or names, but more accounts are now allowed provided they are distinguished in accordance with the National Debt (Stockholders Relief) Act, 1892.

Under Treasury Regulation of the 25th January, 1918, holders of British Government Stocks can demand (a) to be described in the Bank's books as trustees or as holding any other fiduciary position, (b) that the official description of a stockholder be inserted in addition to, or in lieu of, his name in an account in the Bank's books, (c) that they may act by a majority, (d) that stock may be transferred into the name of executors or administrators of a sole or last surviving stockholder whose death has been proved, (e) that (with certain exceptions) stock be transferred from the Bank of England to the Bank of Ireland (Dublin or Belfast) registers and *vice versa*. All such demands must be made on the prescribed form.

A stockholder may, at any time, obtain verification of his holding

by making application on the special form provided for that purpose, and on payment of a fee of one shilling. No fee is chargeable on British Government, Transvaal, and India Stocks.

Stocks may be transferred from inscribed to deed and *vice versa*.

Dividends on stocks domiciled at the Bank of England are transmitted to the sole or first stockholder or first surviving executor or administrator, by post without application. If payment to anyone else is desired, application should be made on the prescribed form at least five weeks before the dividend is due. A different form is necessary if the payment is to be made outside the United Kingdom. Warrants for dividends on British Government Funds can be cashed at any money order office in the United Kingdom if the person presenting them is personally known at the office. The Bank will accept instructions for the payment of dividends to a stockholder's bankers, but will not undertake to pay it to any specific account with the said bankers.

In certain stocks holders of less than £2,000 stock can instruct the Bank of England to receive dividends on their behalf, and to invest them in the same stock. The commission charged by the Bank for this service is one penny for £1 or part thereof.

As a stock receipt is of no negotiable value many stockholders, particularly companies, prefer, where possible, to have their stock registered as transferable by deed, by which means they obtain a certificate stating that the stock is registered in their names. No transfer of deed stock can be effected without production of the certificate. This method, however, has its disadvantages in the case of British Government Stocks. When a transfer deed relating to British Government Stocks is lodged with the Bank of England, a period of about ten days is allowed by the Bank for any objection to be lodged by the transferor, and until this period has expired the stock is not registered in the transferee's name, nor is he allowed to deal with it in any way. As deed stock sold to a jobber is invariably transferred into his own or his nominee's name it is the practice for payment to be deferred until the transfer has been duly passed by the Bank of England and he is able to transfer the stock to a subsequent buyer. This delay may often cause inconvenience, especially when the proceeds of the sale are required in a hurry. Further, the seller must, apparently, run the risk of the jobber being declared a defaulter during the period taken to register the deed, in which case



he would, presumably, rank as a creditor upon the defaulter's estate. With inscribed and bearer stock payment must be made by the jobber on delivery of the stock receipt or the bonds

### REGISTERED SECURITIES

With reference to securities deliverable by deed of transfer, the process of transfer is a little more complicated. It will be seen that the buyer having purchased the stock or shares is entitled to be put into the legal possession of the stock or shares, and to effect this purpose in the first instance, where a deed is necessary, there must be a valid deed of transfer. Unlike the case of the transfer of real property where the purchaser prepares the conveyance, the vendor prepares the transfer at the expense of the purchaser at the price marked on the ticket, the purchaser being the ultimate buyer, who by means of the ticket has been brought in touch with the vendor.

By the Companies Clauses Consolidation Act, 1845 (8 Vict c 16, s 14) a transfer must be made by deed, but under sect 62 of the Companies Act, 1929, shares are transferred in the manner prescribed by the regulations of the company. These regulations may or may not require the transfer to be made by deed.

Under Table A which comprises the regulations for the management of a company limited by shares, unless otherwise provided, the instrument of transfer of any share in the company is required to be executed both by the transferor and transferee, and the transferor is deemed to remain a holder of such share until the name of the transferee is entered in the Register Book in respect thereof. By accepting the transfer, the transferee agrees to become a member, and is liable to be put upon the list of contributories, whilst the transferor becomes a past member, and after a year is released from liability. The form given in regulation 18 is as follows—

I, A B, of \_\_\_\_\_, in consideration of the sum of £  
 paid to me by C D, of \_\_\_\_\_ (hereinafter called "the said  
 transferee"), do hereby transfer to the said transferee the share  
 [or shares] numbered \_\_\_\_\_ in the undertaking called  
 the \_\_\_\_\_ Company, Limited, to hold unto the said

transferee, subject to the several conditions on which I hold the same. and I, the said transferee, do hereby agree to take the said share [*or shares*] subject to the conditions aforesaid.

As witness our hands the                      day of                      .

Witness to the signatures of, etc.

It is usual to have the signatures to all instruments of transfer attested by witnesses. When a transfer is executed out of Great Britain the signatures should be attested by some person holding a public position, such as a Notary Public, H.M. Consul, or a Vice-Consul, or a Magistrate.

There is nothing to prevent the articles from providing that the instrument of transfer shall be in some form other than a deed, but it is not lawful for a company to register a transfer of shares unless a proper instrument of transfer has been delivered.

*Transfers in blank.*—A seller may, of course, sign a transfer in blank, that is, he may leave blank spaces for the name of the transferee and for the purchase-money. The legal effect of this is as follows. (a) In companies where a deed of transfer is necessary, the transfer, being incomplete, is void as a deed at law. Under the Companies Clauses Consolidation Act, 1845, sect. 14, a deed is necessary, and therefore where a blank transfer is tendered in respect of shares in a company under this Act it is void, and inoperative. But under the Companies Act of 1929 a deed is not an essential of a valid transfer, although it may be. In a case where a deed is necessary the purchaser is not entitled to fill in the blanks, nor can the deed be made operative by his so doing, unless it can be shown that it was re-delivered since the blanks were filled in in the presence of all the parties, or in their absence by their authority given under seal (*Powell v London and Provincial Bank*, [1893] 2 Ch. 555). A mere acknowledgment, for instance, by the transferor of the deed when the blanks are filled up, the deed not being in his possession or under his control, is insufficient (*Tramways Union Company v Société Générale de Paris* (1885), 14 Q.B.D. 424). Nor will a deed be made perfect by registration so as to give a good title to the transferee (*France v Clark* (1884), 26 Ch.D. 257).

On the other hand, where a deed is not necessary, nor formal writing, and there has been a blank transfer and delivery of the

certificates, the buyer is entitled to fill up the blanks and register his security, or, if he chooses, to re-transfer the security.

It must, however, be noted that if the original bargain is good the purchaser can enforce the contract, the seller being compelled to execute a proper transfer.

Companies usually require the production of the share certificates before permitting a transfer to be registered, although this is a matter of discretion. In the absence of fraud, the fact that the transferor's name is on the register is conclusive as to his title. Generally, however, companies take the precaution of advising the shareholder that a transfer has been lodged with them, and that they intend to register the transfer within a certain number of days unless they hear to the contrary from him. This, however, is not absolutely protective to the company, and they will be held liable if it should happen that the transfer is not in order (*Barton v London and North-Western Railway Co.* (1889), 24 Q.B.D. 77).

It has been stated that blank transfers are occasionally used in loan transactions. When so used, the position of a mortgagee who holds such a transfer becomes a matter for consideration. Supposing that a mortgagee chooses to fill in the blanks, and obtain registration, and then transfers the security, what is the position of the transferee of the security as against the mortgagor? The mortgagee has apparently given a complete title, and if the transferee is a *bona fide* holder for value, and seeks to perfect his title by registration before receiving notice of the earlier equitable title of the mortgagor, he has obtained the right to have the security registered (*Roots v. Williamson*, [1888] 38 Ch.D. 485; *Moore v. North-Western Bank*, [1891] 2 Ch. 599). In other words, the mortgagor is estopped from denying against the innocent purchaser the title which he has acquired by reason of his, the mortgagor's, negligence.

A deposit, however, of share certificates accompanied by a blank transfer—the transfer as a transfer being inoperative—is evidence that the deposit of the certificates is intended to operate only as a security (*Colonial Bank v. Whinnery* (1887), 11 App. Cas. 426, 343).

Supposing, however, that the transferee has received notice of the prior equitable title of the mortgagor, then the prior title prevails (*Nanney v. Morgan* (1887), 37 Ch.D. 346). Possibly, if the title of

the transferee is practically complete and is completed by registration after notice, his title will prevail over that of the mortgagor (*Roots v Williamson* (1888), 38 Ch D 485; *Dadds v Hill* (1865), 2 Hem & M. 424).

In *Bentinck v. London Joint-Stock Bank*, [1893] 2 Ch 120, a plaintiff's brokers had advanced the plaintiff money on bonds and shares which they had purchased for him on the London Stock Exchange. The brokers having retained the bonds and shares as security (the security empowering them to transfer the securities to any bank for the purpose of raising money on them) transferred the bonds and shares to the London Joint-Stock Bank, together with securities belonging to other clients for an amount exceeding the amount that the plaintiff had borrowed. Some of the registered securities were transferred for full value to the bank by the brokers, others were transferred to a trustee for the bank for a nominal consideration only. The bearer securities were merely deposited. The bank claimed to retain the whole of the securities as against the whole loan. The plaintiff sought to redeem them on payment of the amount borrowed on his behalf. The plaintiff failed, the bank having taken them in good faith, the practice of broker's "taking in" being sufficiently general to warrant the bank in believing that the broker had authority to act in the way that he had done.

In *Fuller v Glyn, Mills, Currie & Co*, [1914] 2 K.B. 168, the plaintiff had bought shares through a firm of stockbrokers and he allowed the certificates for those shares (on which was endorsed a form of transfer executed by the registered holder) to remain in the hands of the stockbrokers. At the suggestion of the stockbrokers the plaintiff agreed that the shares should be registered in names other than the plaintiffs'. The stockbrokers, however, deposited the certificates with their bankers to secure their account and requested them to have the shares registered and the certificates made out in the names of two nominees of the bankers. The stockbrokers subsequently became bankrupt, and the plaintiff claimed the certificates. The bankers claimed to be *bona fide* pledgees without notice of the plaintiffs' title. It was held that there was nothing to put the bankers on inquiry as to the stockbrokers' authority to pledge the certificates, and that having left the certificates in the stockbrokers' hands in such a condition as to convey a representation

that they had authority to deal with them, the plaintiff was estopped from setting up his title as against the bankers

Where a blank transfer is passed by the holder of it to a third party, the third party so receiving it has constructive notice of the prior title of the signatory, for since the transfer is incomplete upon the face of it, he is put upon inquiry as to the title of the person from whom he received it. In *France v. Clark* (1884), 26 Ch D 257, a holder of shares in a company deposited the shares as security for a loan of £150, handing the mortgagee a signed transfer, but with the date, consideration, and name of the transferee in blank. The mortgagee subsequently mortgaged the shares as security in respect of a loan of £300, handing the transfer in blank to the sub-mortgagee. The sub-mortgagee, after the death of the mortgagee, completed the transfer, inserting, however, the amount of the sub-mortgage, namely, £300, as the consideration. It was decided that although the mortgage was for £300 as against the mortgagee, yet that he had no title, except in respect of £150, the original mortgage, since he necessarily had notice that the transfer was not in order when he received it, and as he made no inquiry, although he was put upon inquiry, he could have no more right than that which the mortgagor conferred upon the mortgagee. Apparently, however, there would have been an implied power to have inserted £150 as the consideration money in order to have perfected the deed, and the securities might be held till the amount of the original advance was paid off (*Bentinck v. London and Joint-Stock Bank*, [1893] 2 Ch. 120).

In the *Colonial Bank v. Whinnery* (1887), 11 App Cas 426, the effect of the bankruptcy of the mortgagor, who had deposited shares certificates, with an equitable mortgagee, was considered. It was urged that since the name of the mortgagor was on the share register of the company the shares were under the order and disposition of the bankrupt, and passed to his trustee in bankruptcy. It was decided, however, that shares were "things in action" coming within the proviso in section 44 of 46 & 47 Vict. c. 52 (now sec 38 of the Bankruptcy Act, 1914), and that they accordingly did not pass to the trustee, but belonged to the equitable mortgagee.

The question has also to be considered how far a mortgagor would be estopped as against a *bona fide* purchaser, by giving a blank transfer with an authority to a broker to fill it up, where the transfer was void as not being by deed complete in itself. In *Swan v.*

*North British Australasian Company* (1862), 7 H & N 603, a broker who had authority to fill up the transfer deed in blank in respect of the shares in one company filled it up as to shares in another company, the shares being subsequently transferred to an innocent party. Inasmuch as the forgery of the broker was the occasion of the loss the plaintiff was held to have a superior title. It is doubtful, however, whether a blank deed as being void at law could give rise to any estoppel.

A question may arise on a deposit of the share certificates of foreign companies as to the rights of the parties, and whether English or foreign law is to be applied thereto. Such a case did, in fact, arise in the *Colonial Bank v. Cady* (1890), 15 App. Cas. 267, where the executors of a registered holder of shares in the New York Central and Hudson River Railroad Company, desiring to have the shares transferred into their own names, sent the certificates to their London brokers, having previously signed as executors the blank transfer on the back of each certificate. One of the partners in the firm of London brokers in fraud of the executors delivered the certificates with other property to the Colonial Bank as security for advances to his firm. Certificates representing 500 shares were also pledged to the London Chartered Bank of Australia. On the bankruptcy of the brokers the fraud was discovered, and the executors, Cady and Williams, brought actions against the two banks to establish their title to the shares and to restrain the banks from dealing with them. In New York, delivery of the certificates with indorsed transfers signed passed to the banks the legal and equitable title to the shares, and it was contended that the case must be governed by the law in New York. In the course of his judgment Lord Herschell said the appellants "contend that the question is not to be determined by the law of England. They insist that although all the transactions between the parties took place in this country, inasmuch as the company, the title to the shares in which is in question, is a corporation existing under and governed by the laws of the State of New York, recourse must be had to the law of that state to determine what is necessary to pass the property in such shares, and whether under given circumstances the property in them passed, without regard to the place where the transaction took place, which is alleged to have had that result. I agree that the question, what is necessary or effectual to transfer the shares in such

a company, or to perfect the title to them, where there is or must be held to have been an intention to transfer them, must be answered by a reference to the law of the State of New York. But I think that the rights arising out of a transaction entered into by parties in this country, whether, for example, it operated to effect a binding sale or pledge as against the owner of the shares, must be determined by the law prevailing here." It was further held that the conduct of the executors in delivering the transfers being consistent with an intention either to sell or pledge the shares, or to have themselves registered as the owners, they were not estopped from setting up their title against the banks, and that the banks ought to have inquired into the broker's authority.

Though the question of registration of transfers without production of the share certificates is said to be discretionary, still a company has an undoubted right to refuse to register till it has been proved that the certificates have been lost, and a proper indemnity is offered. In the *Société Générale de Paris v Walker* (1886), 11 App. Cas. 20, Lord Blackburn stated the law as follows: "When first shares in joint-stock companies were made transferable, and actions were brought by vendors against purchasers of such shares, a difficulty arose as to what was sufficient evidence of the title of the vendor to the shares which he required the purchaser to accept. To meet this difficulty, in the first Joint-Stock Companies Act, that of 1844, (7 & 8 Vict. c. 116, s. 52), it was enacted 'that it shall be the duty of all Courts of Justice, judges, justices, and others to admit such certificate as prima facie evidence of the title of the shareholder to the share therein specified, nevertheless the want of such certificate shall not prevent the holder of any share from disposing thereof.' And in the Companies Clauses Consolidation Act, 1845, and the Companies Clauses Consolidation (Scotland) Act, 1845, under the head, Distribution of Capital, is a clause (sect. 12) the same in both Acts 'the certificate shall be admitted in all courts as prima facie evidence of the title of such shareholder, his executors, etc., to the share therein specified, nevertheless, the want of such certificate shall not prevent the holder of any share from disposing thereof.' The Act of 1844 was repealed by the Joint-Stock Companies Act, 1856, the 20th and 21st sections of which are: '20. The transfer of any share in the company shall be in the form marked F in the schedule hereto, or to the like effect, and shall be executed both by

the transferor and transferee; the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in a register book in respect thereof 21. A certificate under the common seal of the company specifying any share or shares held by any shareholder shall be *prima facie* evidence of the title of the shareholder to the share or shares therein specified' This Act again was repealed by the Companies Act, 1862. The Companies Clauses Consolidation Acts of 1845 have not, as far as I am aware, been altered, as far as regards this subject, by any subsequent legislation. Now I quite agree that the legislature did not enact that the production of the transferor's certificate should be a condition precedent to the registration of the transfer; and in the earlier Acts it was expressly declared that the want of possession of a certificate should not prevent the holder of a share from disposing of the same. But very soon (I cannot tell how soon) those who took as security from the holder of shares an engagement by which he bound himself not to part with the shares to anyone else until that security was discharged, perceived that the security would practically be much better if they had the certificates in their possession. The registered holder of the shares still might, if dishonest enough, in violation of his contract, execute a transfer, but he would have much more difficulty in finding a transferee who *bona fide* would be led to believe that he was entitled to do so. And, I do not know how soon, those who managed companies of this kind and had the control of the register became aware that, if they registered a transfer at once and on its being presented to them, even if it was accompanied by the certificates, or as it is called, 'in order,' there was a risk that they might register a forged transfer and not only do an injury to others, but put the company itself in a difficulty. It became, therefore, usual when a transfer was brought not to register it at once, but, as one precaution, to write to the registered address of the shareholder, and inform him that such a transfer had been lodged, and that if no objection was made by him before a day specified it would be registered. This was the course pursued in *Taylor v Great Indian Peninsula Railway Company* (1859), 28 L J. Ch. 285, and notice thus given enabled Taylor to prevent the registration of what turned out to be a forgery. Soon after this the case arose of *In re North British Australasian Co., Ltd., Ex parte Swan* (1860), 7 C B N.S. 400 (see also subsequent proceedings (1862), 7 H. & N 603).



That company was formed under the Act of 1856. The certificate was under the seal of the company, and on it was a note 'No transfer of any of these shares will be registered unless accompanied by this certificate.' It is printed in the report and was dated the 15th of September, 1857. This is the earliest mention that I can find of such a note. What purported to be a transfer duly executed by Swan to Horace Barry, accompanied by the certificates, was lodged with the company. The transfer deed and the certificate are set out in the report. The secretary of the company adopted the same precaution as had been adopted by the Great Indian Peninsular Company, and before registering wrote to the address given by Swan to them, viz.: Mr Robert Swan, care of W. L. Oliver, 41 Austin Friars, Old Broad Street, describing the transfer lodged, and the certificate, and adding, 'the transfer will be retained here for three clear days from the date hereof, in order to afford you an opportunity of communicating with me in the event of their being any irregularity in the transaction, and failing your reply within the time mentioned the transfer will be registered and a new certificate issued to the purchaser.' The forger, Oliver, who was afterwards convicted, intercepted this letter. The transfer was registered and a new certificate issued to Barry. The result of the litigation showed that even after all these precautions the company did suffer from registering the transfer, being obliged in the end to restore the shares to Swan. In *In re Bahia and San Francisco Railway Company* (1868), *L.R.*, 3 *Q.B.* 584, the facts were very similar, but the point decided was not quite the same. The certificate is set forth in the special case, and probably had not on it such a note, at all events it is not there set out. But the point decided was that the company were liable to make good their loss to persons who had purchased and paid for the shares from those who produced genuine transfers from those who had been registered along with genuine certificates granted to them, although that register was set aside. All the judges put it on the ground that in the usual course of business the production of the certificates along with the transfer entitled the transferee to pay on the faith of the certificate, which therefore amounted to a preclusion against the company. This certainly, in my mind, shows that those on whose advice companies, before registering a transfer, which would entitle the transferee to a certificate, required that the certificate already issued should be produced, or its non-production

accounted for, advised well, and that the note on the certificate to this effect calling the attention of those who had the shares was fair and proper. Such a note does not prevent this company, if a proper case is made before them, from exercising the power given by Article 35. Nor does a similar note on a certificate issued by a company, under the Companies Clauses Act, 1845, prevent the directors from exercising the similar power given by section 13 of the Companies Clauses Act, 1845, but it does make it important for those who purchase shares to see that the transfer is not only by a deed duly executed, but is accompanied by the certificate. Unless that is so, the transfer, to use the phrase of the witnesses in this case, is 'not in order.' And without going further, it at least makes it not wrong for the company to pause and make some inquiry before exercising their powers."

The Directors are entitled to a reasonable time, it has now been decided, for the consideration of every transfer before they register it, although not expressly empowered in that behalf by the Articles of Association (*In re Ottos Kopje, Limited*, [1893] 1 Ch. 618).

Companies, however, are not protected, notwithstanding all the precautions that they have taken, in the event of fraud. Thus, if registration has been effected by means of forged transfers, the title of the real owner is not thereby affected.

Thus in *Barton v North Staffordshire Railway Company* (1888), 38 Ch.D. 458, and *Barton v. L. & N.W. Railway Company* (1889), 24 Q.B.D. 77, where one executor and trustee of a will had made a transfer of railway shares, which were registered in the names of both executors and trustees, in accordance with the provision of the Companies Clauses Act, 1845, and forged the name of his co-executor and trustee to the transfers which were then registered, the plaintiffs, a new trustee appointed in place of the fraudulent trustee and the innocent trustee, were held entitled to have the transfers treated as a nullity, and the company were ordered to register the plaintiffs as owners of the stock. In such a case as this the Statute of Limitations would begin to run from the time of the refusal of the company to treat the plaintiffs as shareholders, when the forgery was made known to them. A number of cases have decided that a *bona fide* purchaser who has purchased on the faith of the companies' certificates is entitled to be indemnified in damages by a company for any loss he has sustained, since the

companies' certificates are issued for the purpose of being acted upon. The principle, however, on which the Courts act is stated in *In re Ottos Kopje, Limited*, [1893] 1 Ch 618, where shares were bought upon the faith of a share certificate issued by the company, and the purchaser tendered a transfer to himself duly executed together with the share certificates, which the company declined to register on the ground that the certificates had been fraudulently issued by a late secretary, who had made fraudulent transfers of shares and falsified the share register, and had induced the Directors to sign and affix the seal of the company to the certificate in question without checking the share register. The purchaser was held entitled to maintain an action at common law against the company, who were estopped from denying his right to be registered. The cause of action, however, did not arise from an implied warranty upon the certificate or breach of warranty arising out of the certificate, since a certificate is not like a promissory note. It does not transfer a chose in action, it is only a representation. It arose from an omission to do something which ought to be done, or the doing of something which ought not to be done. To give rise to a cause of action the court will look elsewhere than to the assumption that the company cannot dispute the facts stated in the certificate. There must be a refusal by the company to do what it was bound to do, or a refusal by an officer of the company to do what that officer was bound to do.

The actual giving of a certificate, although a representation to a possible transferee, does not amount to more than a representation by the company to such transferee, which was indeed intended to be shown to him at the time of the sale, but which, as between the company and the transferee, would not, unless it were fraudulent, give rise to a cause of action at common law, unless there was either a duty on the part of the company towards the transferee, or a contract at common law to make the representation good. That was the decision in *Derry v. Peek* (1889), 14 App. Cas 337. If the transferee has a right of action upon the certificate, it can only be because it is an implied warranty between the company and him, upon which an action can be brought. There is no privity at all between the company and the transferee. Neither is there any implied warranty, but this rule does not hold good where there has been in fact no certificate issued by the company as in *Ruben v. Great*

*Fingall Consolidated*, [1906] A C. 439. There the facts were that the secretary of the defendant company applied to the plaintiffs, who were stockbrokers, to procure for him a loan of £20,000 in order to enable him to purchase 5,000 shares in the defendant company. Accordingly the plaintiffs arranged with a firm of bankers to advance the money upon a transfer of the shares to the plaintiffs' names. The secretary forged a transfer in the name of one Hety as transferor. The transfer was duly executed by the bankers as transferees, and then the plaintiffs delivered it to the secretary in exchange for a certificate. The certificate purported to state that the bankers were the registered proprietors of 5,000 shares; it purported to be signed by two directors; the seal was affixed to it and it was countersigned by Rowe himself as secretary. In fact, the names of the two directors were forged by Rowe, and the company's seal was affixed by Rowe fraudulently, and not for or on behalf of or for the benefit of the defendant company, but solely for himself and for his own private purpose and advantage. Upon this the bankers advanced £20,000. When the fraud was discovered the plaintiffs were obliged to repay to the bank the sum of £20,000, and brought this action against the defendant company upon the ground that they were liable for the fraud of Rowe. The action was for damages for refusing to register the plaintiffs as owners of the shares.

The doctrine that persons dealing with limited liability companies are not bound to inquire into their indoor management and will not be affected by irregularities of which they had no notice is well established, but this doctrine applies only to irregularities that otherwise might affect genuine transactions. It does not apply to forgeries.

In *Bishop v. Balkis Consolidated Co., Ltd.* (1890), 25 Q B D. 512, the effect of the certification of a transfer by the company's solicitor was considered under the following circumstances. A shareholder in the company had transferred his shares to a purchaser, and his share certificate was lodged with the company to enable the purchaser to complete his title. The shareholder subsequently purported to transfer a portion of the shares to another purchaser, who, in his turn, sold and executed a transfer to the plaintiff. The company's secretary, in the manner usual upon the transfer of shares, certified the transfer by placing upon it the words "certificate lodged," although no certificate was lodged in

respect of the transfer; and upon the faith of this certification the plaintiff paid for the shares. On the defendants' declining to recognize the plaintiff as the owner of the shares, he brought an action to recover their value from the defendants. It was held that the certification was a representation which had been acted upon, and that the plaintiff was not entitled to recover the value of the shares from the company.

This case, however, was discussed in *In re Concessions Trust, McKay's case*, [1896] 2 Ch. 757, where in the winding-up of the Concessions Trust, Limited, the liquidators placed the name McKay on the list of contributories in respect of 300 shares at 5s each. McKay took out a summons asking that the list and the liquidators' certificate finally settling the same might be varied in respect of the inclusion of his name therein as an unpaid shareholder, and that his name might be struck out or entered as a fully paid shareholder. It seemed that the applicant purchased seventy-five shares numbered 7082 to 7156, and twenty-five more of them, numbered 7022 to 7046, in the ordinary way of business through a stockbroker at a premium. The two transfers executed by the transferor and by the applicant as transferee described the shares as fully paid. Each of the transfers bore a certificate, signed by the company's secretary, that the certificate of the shares had been lodged with the company. Certificates for the shares had been issued to the transferor. They did not state on the face of them whether the shares were fully paid up or not, but on the back of each of them there was an indorsement, signed by the secretary, but not under the seal of the company, stating the numbers of the shares, and that they were fully paid up. Only 3s. a share had been paid, and the certificates held by the transferor had not been lodged with the company as stated in the certification. The applicant later purchased another lot of 200 shares, numbered 76679 to 76878, from the managing director of the company, paying 2s a share for them. They were described as fully paid, although 3s a share only had been paid. The transfer bore the same form of certification as the transfers of the 100 shares, but no certificate in respect of the 200 shares had been issued to any one before the transfer.

The certificates issued to the applicant did not state whether the shares were fully paid up or not. It was held by Vaughan Williams, J., that when a transfer for value, purporting to relate to fully paid

shares in a company, bears on the face of it a certification by the secretary of the company that the share certificate has been lodged with the company, the certification amounts to a statement that a certificate of the shares described in the transfer has been lodged, and the company is estopped from denying that the shares are fully paid up, even though no certificate has been lodged with the secretary, or the certificate lodged does not say whether the shares are fully paid up or not.

Mr. Justice Vaughan Williams said "Does the certification imply that the certificate produced was a certificate of the ownership of fully paid shares? I have no evidence on this point, but I believe there is no doubt that, according to the practice of the Stock Exchange, such a certification on a transfer purporting to be a transfer of fully paid shares would be taken to certify the lodgment of a certificate of ownership of fully paid shares. If, however, the liquidators desire to give evidence on this point, I will give them the opportunity of so doing. The secretary certifies that the documents produced to him are in order, i.e. that they are right on the face of them, but if I am right in my view, the documents would not have been in order unless a certificate of fully paid shares had been produced. The same reasoning seems to me to apply to the 200 shares. According to the case of the company, no certificate which was in order could have been produced. The transferor could have obtained his certificate for partly paid shares and nothing else, and this would not have been in order, and I think that to hold that the company is estopped from saying that there was no certificate of the ownership of these shares as fully paid is not to make the company by their certification warrant the title of the transferor but merely to make them warrant the production to them of a certificate respecting these shares as fully paid, and the certificate which the transferor could have obtained was not such a certificate."

Every transfer of stock and shares under the Stamp Act, 1891, is chargeable with duty.

For details of the amount of stamp duty payable on transfer deeds, bearer warrants, etc., see Chapter XVII. "Terms in Use on the Stock Exchange."

## CHAPTER XIII

### POSITION OF SELLER AND BUYER SUBSEQUENT TO TRANSFER

THE legal position of a seller who has executed a transfer, but where the transfer has never been registered by the transferee, is that of a trustee. He has executed the transfer and delivered the certificates, but has not divested himself of his obligations to the company by reason of the purchaser's name not having been registered as owner. The purchaser consequently will possess no more than an equitable title. The position of a seller who is a transferor has under these circumstances to be considered ; secondly, the position of the purchaser till the transfer is registered.

As has already been stated the position of the transferor is that of trustee. It is obvious that in many instances in the ordinary course there must be delay before the transferee can complete his legal title, since there are certain formalities to be complied with, for instance, the registration of the name of the transferee on the books of the company. Some companies prepare their own transfers, other companies have their offices abroad, and in all cases a certain amount of time must elapse before the name of the new holder can appear as the registered holder of the stocks and shares. Pending the completion of these formalities as the transferor's name is still on the register, he is entitled *prima facie* to all dividends payable, to rights, such as the right to apply for shares in subsidiary companies, etc. On the other hand, he is liable for calls where the capital is unpaid, and, if the company were to be wound up pending the registration of the transferee, to contributions in the winding-up in companies where the liability was not limited ; even when the necessary time has elapsed for complying with the formalities of registration, the rights and liabilities of the transferor continue where the transferee's name is not registered by reason of the company refusing to register it, and also where the proposed transferee declines to execute the transfer and to take the necessary steps to have it registered.

The rules applying to deduction of dividend have already been discussed. As to dividends on securities deliverable by deed of transfer, see Rule 120 (3) and dividends payable on bearer securities, Rule 139. As to making securities *ex-dividend*, Government

Securities, registered shares and debentures, bearer securities, American shares and Victory Bonds are covered by Rule 111. For the deduction of income tax and accrued interest on securities excepted in Rule 138 see Rule 112, and for the deduction of dividend on securities deliverable by deed of transfer when the dividend has been declared, Rule 132. For dividends declared payable in foreign currency see Rule 133; for new securities in right of old, Rule 114. As to rights on option stock see Rule 115 (1) and coupons payable abroad, Rule 139, and for a temporary settlement, Rule 114 (5).

The right of the transferor as trustee is the right to be indemnified where he has met obligations which are properly the obligations of the transferee. Thus, supposing a company makes a call upon the transferor as registered owner, then the transferor is entitled to call upon the buyer or transferee to repay him what he has paid.

The buyer or the transferee, subject to the Stock Exchange rules, is entitled to all the benefits that accrue from his purchase. He is also liable to indemnify the transferor in respect of calls which the transferor as legal owner has been compelled to pay.

It is now proposed to consider the liabilities of the transferor in various ways, viz., (a) in respect of the genuineness and regularity of the security, (b) in respect of dividends, (c) in respect of rights, and (d) in respect of calls.

(a) IN RESPECT OF THE GENUINENESS AND REGULARITY OF THE SECURITY. Here, in all classes of securities, not merely in those where the ownership passes by transfer, but in cases where the securities pass by delivery, the seller is responsible for the genuineness and regularity of all documents delivered, so also is the seller of securities passing by delivery and in case of his death, failure, or retirement from the Stock Exchange, such responsibility attaches to each member in succession through whose hands the securities or the ticket representing the securities may have passed. In the case of securities deliverable by deed of transfer the Committee will not, except under special circumstances, interfere in any question arising from their delivery by transfer in blank, nor will they interfere after an official certificate of registration has been issued unless bad faith is alleged, or take cognizance of any subsequent dispute as to title, until the legal issue has been decided, the reasonable expenses of which legal proceedings must be borne by the seller.



It will be noticed that there appear to be two stages in the Committee's practice as defined by their rule. During the first the Committee will interfere on behalf of the buyer, in the second the Committee will not interfere till the legal issue has been decided. Before considering the latter stage and the meaning of the legal issue, it may be convenient first to see what the seller has to do to complete his part of the transaction. He has to deliver the share certificates and execute the transfer, and then for his own protection the buyer should see that his name is duly registered. But till a reasonable time has elapsed for this purpose, the seller's liability continues. He is not, however, liable indefinitely but only for a reasonable time, and what is meant by a reasonable time is not stated—except in the case of American shares passing by delivery—but from the rule stated in these cases it may be inferred that a reasonable time would be considered such a proper interval of time as would allow the transmission of the certificates to the companies' offices. With American securities, the rule (135 (3)) is that the Committee will not take cognizance of any complaints in respect of the irregularity in the indorsement of an American share certificate should such certificate be detained by the buyer more than three months after delivery, unless it can be proved that the member passing it was aware of the irregularity.

It may be convenient to notice what is here meant by the seller, since it is he who is responsible for the genuineness and regularity of all the documents and for the dividend. The seller will include the immediate seller, and not only the deliverer who makes out the transfer (*Smith v. Reynolds* (1892), 66 L.T. 808, affirmed, *Reynolds v. Smith* (1893), 9 T.L.R. 494. See also *Royal Exchange Assurance v. Moore* (1863), 8 L.T. 242).

In *Smith v. Reynolds*, Smith, a broker, who had sold Railway stock, of which the transfers had been forged by one of two executors of a testator, was held liable to replace the security, the Committee deciding that all persons who had to make good delivery must make it. Thereupon he proceeded against the defendant, an outside broker, who had instructed him to sell, to obtain an indemnity. The question of the validity of the rule with reference to the responsibility of the seller was therefore in question. The Court held that the rule was not unreasonable, and that the words which occur in the rule, "till the legal issue has been decided," meant the legal issue between

the principals of the buying and selling broker, and notwithstanding that the liability was apparently limited by the words, "until reasonable time has been allowed the transferee to execute and duly lodge such documents for verification and registration," the liability continued. The construction of the rule seems to show that there would be an interposition by the Committee up to the period of registration when the purchaser would obtain a *prima facie* title (Companies Act, 1929, s. 68), but not an absolute or indefeasible title to the shares. For once it can be shown that the holder obtained the shares from some person who could not give a title to them, the name of the true owner will be restored to the register and the holder will lose his shares. But if the holder acquired the shares in good faith, having given value for them relying upon a certificate, the Company will be stopped from denying his title to the shares, which he was induced to buy or pay for by being shown the certificate issued by the company itself (*In re Bahia and San Francisco Railway Co.* (1868), *L R*, 3 *Q B*. 584, *Tomkinson v. Balkis Consolidated Co.*, [1893] *A C* 396, *Ottos Kopje Mines*, [1893] 1 *Ch* 618). However, in case of irregularities, as the true owner is entitled to be on the register, the holder in good faith has no right to the shares but only a right to damages against the Company (*Hart v. Frontino Co.* (1870), *L R*, 5 *Ex* 111). Companies have power, if they choose, to adopt the Forged Transfers Acts, 1891 and 1892, and to provide compensation for losses arising through transfers being forged.

(b) IN RESPECT OF DIVIDENDS. That the seller should account for the profits received subsequently to sale and before completion is the rule of law, apart from Stock Exchange custom. Thus, in *Black v. Homersham* (1879), 4 *Ex Div* 24, it was held that the purchaser of shares bought at auction was entitled to the dividend declared subsequently to the sale, but prior to the completion. The accruing dividend, it should be noticed, is always included in the price of stocks for probate. The rule as to the right to dividends also applies to options. Thus the call of shares, if exercised, includes the right to dividends received by the seller during the term of the option. It also applies to dividends declared in shares, where shares are sold cum div. for a settling day prior to the distribution of the dividend. These dividend shares have to be transferred to the buyer separately as representing a

transaction independent of the original transaction, and must be stamped with a nominal consideration stamp of 10s

The Stock Exchange Rule on this matter states that the seller is responsible for such dividends as may be due to the buyer unless an unreasonable time has been taken by the transferee to execute and lodge the document for registration or there has been unreasonable delay in claiming the dividend. Even in the latter case, however, the selling broker is bound to render every assistance to the buyer in attempting to recover any dividend due to him.

(c) IN RESPECT OF RIGHTS. It sometimes happens that new securities have been issued in place of the old, or a new issue has been made with a preferential allotment to holders of the old. The buyer is entitled to claim these rights. The right of the buyer of these is analogous to the right the buyer possesses to new dividends. It is therefore a question of fact as to whether the buyer purchased these. Were the shares at the time of the bargain quoted ex-new or not? If not so quoted, the buyer would be entitled to new shares not then actually allotted, the issue of which might be authorized either before or after the bargain (*Stewart v. Lupton* (1874), 22 W.R. 855). It will be noticed that the seller is the person responsible for the new shares. This means the immediate seller and not necessarily the person who is going to deliver. Under Rule 114 the buyer is entitled to new securities issued in right of old, and the seller if he be in possession of them is responsible to the buyer for the same. If he is not in possession of the new securities he is bound to render every assistance to the buyer in tracing them.

(d) IN RESPECT OF CALLS. The liability for calls due rests upon the transferor before the transfer is registered. The transferor may, however, previous to delivery, pay any call made on registered shares although not due, and claim the amount from the issuer of the ticket. The explanation of this rule is found in the fact that many companies have power to decline to register a transfer of shares where such shares are not fully paid. Section 16 of the Companies Clauses Consolidation Act, 1845, which applies to Parliamentary companies, provides that no holder is entitled to transfer his shares whilst a call is pending, although not actually payable.

If a fee is payable on registration, this is paid by the buyer where it has been paid in advance by the seller (Rule 128 (1)).

## CHAPTER XIV

### TRUSTEE CLIENTS

THE client or clients of a stockbroker often happen to be trustees, and it is advisable to state the law as to their position in instructing stockbrokers with reference to the making and changing of investments, and the payment over to them of the purchase-money. The question of a trustee's responsibility was very fully considered in the case of *Speight v. Gaunt* (1884), 9 App Cas 1. There Gaunt was a trustee of £15,275, trust money under the will of John Speight. This money he paid to a broker at Bradford named Cooke for the purpose of investment. The residence of the testator, his wife and children, was at Bradford, and the trustee resided half-way between Leeds and Bradford, having a place of business in each of these towns, which he was in the habit of visiting from time to time. By the will of the testator, investments of the trust funds were authorized in the securities of municipal corporations. The trustee thought the business would be most conveniently and properly carried out through a broker, and accordingly employed Cooke, who was a man of good credit and who represented a firm of good standing, the firm having been employed by the testator in his lifetime. He had been previously employed in selling securities of large value for the trust estate, and had when so employed properly discharged his duty. The trustee had no reason to distrust his professional capacity, solvency, or integrity. The trustee by letter informed the testator's daughter that he had given Cooke instructions to purchase £15,000 worth of securities in Huddersfield, Leeds, and Halifax, £5,000 to be invested in each corporation, and this information was intended to reach every other member of the family. Subsequently it appeared that Leeds was the only one of the three which had issued debenture stock, although the others were borrowing money on debentures at  $3\frac{3}{4}$  per cent interest. The Leeds securities were dealt in upon the London and the Country Exchanges, but there was no similar market for those of the Corporations of Huddersfield and Halifax, though they were sometimes applied for through brokers, in which cases a commission seems to have been allowed to the brokers by the Corporation. Subsequently

Cooke informed the trustee that he could get Stockton, which paid more interest than Halifax, and he thought that they were quite safe, but nothing suggested to the trustee any distrust of Cooke. At a later date Cooke came to the trustee with an advice or bought note signed "John Cooke & Son," and directed to the executors of the late John Speight, stating that "We have this day bought for you as per your order subject to the rules of the London Stock Exchange—

£5,000 Leeds Corporation loan	Debenture Stock at 105½	net	£5,275
£5,000 Huddersfield	"	"	100
£5,000 Stockton	"	"	100
			<hr/>
			£15,275 "
			<hr/>

Cooke informed the trustee that he wanted the money for the stocks he was to pay for to-morrow. This would have been correct if the transaction had been a real one, for the money would have been payable on the next day, which was the Account or Settling-day in the London Exchange. Cooke received three cheques for the specific amounts, leaving with Musgrave, the accountant to the trust estate, by direction of the trustee, the bought note. Cooke thus obtained the money, substituting, however, for the bought note, not the one he had produced to the trustee, but another in which £5,000 Halifax instead of £5,000 Stockton was represented to have been purchased. Cooke shortly afterwards presented a petition for liquidation when the fraud was discovered. These being the facts of the case, the House of Lords was called upon to say (1) whether it was proper for the trustee to use the agency of a broker for the purpose of the intended investment, (2) whether the payments of the money so employed to the broker under the circumstances of the case were justified.

The Lord Chancellor, Earl Selborne, said in his judgment "I think that, when an investment of trust moneys is proper to be made upon securities which are purchased and sold upon the public exchanges, either in town or country, the employment of a broker for the purpose of purchasing those securities, and doing all things usually done by a broker which may be necessary for that purpose, is *prima facie* legitimate and proper. A trustee is not bound himself to undertake the business (for which he may be ill-qualified) of seeking to

obtain them in some other ways, as, for example, by public advertisement or by private inquiry. If he were to do so, he might, in many cases, fail to obtain them upon the most favourable terms. Securities of English municipal corporations are from time to time bought and sold upon the London and some other exchanges. The evidence in this case shows that the 4 per cent debenture stock of the Leeds Corporation was so bought and sold, and the respondent did not know, and had, in my judgment, no reason to know, that the securities of the other corporations also (whether they might be stocks or debentures) were not also so bought and sold. That was a point as to which he might properly and reasonably determine to avail himself of the superior means of inquiry and information which in the ordinary course of his business a broker would possess. He was, therefore, in my opinion, entitled to give such instructions to a competent broker as he actually gave to Cooke in the present case, under which, if the securities in question were procurable by purchase on the Exchange, the broker might be expected so to procure them, and if he procured them in any other way he might also be expected, in the ordinary course and due performance of his duty, so to inform his principal. It is probable that securities of municipal corporations might more easily be obtained than some others by private inquiry, and perhaps with less probability of their being procurable through a broker, on better terms; but I should think it dangerous and not justified by any sound principle to hold that the duties and responsibilities of trustees, in respect of such investments (when duly authorized), vary according to the greater or less facility of obtaining them in one way or another in each particular case.

“Thinking, therefore, that the employment of Cooke as a broker in this case, under the instructions actually given to him, was proper and not inconsistent with the duty of the respondent as trustee, the next subject of inquiry is whether it was a just and proper consequence of that employment according to the principle of *In re Parsons, Ex parte Belchier* (1754), *Amb* 218, that the trust money should pass through his hands. Upon this point I must first observe that the case appears to me to be different from what it would have been if Cooke had entered into contracts with the several corporations for direct loans to them by the trustee, and had reported to the trustee that he had done so. The agency of a broker, as such,

is not required to enter into a contract of that kind, and if the agency of a person who happens to be a broker is, in fact, employed to do so, I do not perceive why the consequences should be different from what they would be if a solicitor or any other person had been employed. The transaction could not be governed by the rules or usage of the London or any other Exchange. There would be no moral necessity, or sufficient practical reason, from the usage of mankind or otherwise, for the payment of the money to the agent, there would be no difficulty or impediment arising from the usual course of such business, in the way of its passing direct from the lender to the borrower in exchange for the securities, and if it should be found convenient to send it by the hand of a broker, or any other messenger or agent, this might be done by a cheque made payable to the borrower or his order, and crossed, as is usual in direct dealings between vendor and purchaser, debtor and creditor, when payments of considerable amount have to be made. I think it right not to withhold the expression of my opinion, that such a case would fall within the principle of *Rowland v Witherden* (1851), 3 Mac & G 568, and *Bostock v Floyer* (1865), 35 Beav. 603, 606, rather than that of *In re Parsons, Ex parte Belcher* (1754), Amb. 218. On this subject I find myself in agreement with Bowen, L J; nor do I infer from the judgments of Lindley, L.J., and Sir George Jessel that either of them thought otherwise . . . Unless, therefore, it can be shown that the trustee was not entitled to give or did not in fact give credit to the bought note, as a representation made by the broker (whose good faith he had then no reason to suspect) that the securities had been bought upon or under the rules of the London Stock Exchange, the just and reasonable conclusion from the evidence is that he was justified in paying the money as he did to Cooke."

Lord Blackburn, in his judgment, makes some remarks which are well worth remembering by trustees in making investments. "The authorities cited by the late Master of the Rolls, I think, show that as a general rule a trustee sufficiently discharges his duty if he takes, in managing trust affairs, all those precautions which an ordinary prudent man of business would take in managing similar affairs of his own. There is one exception to this—a trustee must not choose investments other than those which the terms of his trust permit, though they may be such as an ordinary prudent man

of business would select for his own money, and it may be that however usual it may be for a person who wishes to invest his own money, and instructs an agent, such as an attorney, or a stockbroker, to seek an investment, to deposit the money at interest with the agent till the investment is found, that is, in effect, lending it on the agent's own personal security, and is a breach of trust."

The principle enunciated in *Speight v Gaunt* (1884), 9 App Cas. 1, was subsequently embodied in Section 24 of the Trustee Act, 1893, which was replaced by Section 30 of the Trustee Act, 1925 That section provides—

"(1) A trustee shall be chargeable only for money and securities actually received by him, notwithstanding his signing any receipt for the sake of conformity, and shall be answerable and accountable only for his own acts, receipts, neglects, or defaults, and not for those of any other trustee, nor for any banker, broker, or other person with whom any trust moneys or securities may be deposited, nor for the insufficiency or deficiency of any securities, nor for any loss, unless the same happens through his own wilful default.

"(2) A trustee may reimburse himself or pay or discharge out of the trust premises all expenses incurred in or about the execution of his trusts and powers "

Whilst, however, a trustee is permitted to avail himself of the use of brokers and agents to carry out the trust business, a trustee must not rely blindly on his agent's assurance without himself testing the soundness of the opinion for himself, or obtaining the necessary information to enable him to do so (*Learoyd v. Whiteley* (1887), 12 App Cas, at p. 734).

In choosing an investment the trustee should remember that, when registered as the owner of shares, he becomes as between himself and the company the absolute owner, and will be entitled to all remedies against the company, and vice versa, so that should a trustee hold shares carrying any liability he will be liable for calls to the company in the case of any uncalled liability existing Whether he would have any claim against the estate would, of course, depend upon his having observed the terms of his trust If a trustee has exercised his discretion, *bona fide*, shares not fully paid up are not necessarily an improper investment (*In re Johnson*, [1886] W N. 72) Where a deed contained a power to invest in "such securities as the trustees should think fit," an investment made in debentures in a



limited company by way of floating security was held justifiable (*In re Smith, Smith v Thompson*, [1896] 1 Ch 71) So also when an investment was authorized in such securities as the trustees should in their uncontrolled discretion think fit, they were held not liable for investing in shares of a bank carrying liability (*In re Brown* (1885), 29 Ch D 889).

It has been decided that where trustees were authorized "to retain investments in their present form," they could accept shares in a reconstructed company taking the place of the one in which they held shares (*In re Smith, Smith v Lewis*, [1902] 2 Ch. 667).

A trustee must, in making an investment, hold the scale equally between the several beneficiaries and between the present beneficiaries and the remaindermen. The law on this point has been well laid down by Mr , afterwards Lord Justice, Kay in the well-known case of *In re Dick*, [1891] 1 Ch 423 (affirmed as *Hume v. Lopes*, [1892] A.C. 112), in the following words "Trustees must bear in mind that the duty of a trustee when called upon to change an existing investment is an important duty, and that it would not be the proper exercise of his discretion to change the investment merely for the sake of increasing the income of the tenant for life, if by doing so he diminishes the security of the capital fund " These remarks, of course, apply equally to the making as to the changing of investments by trustees A large number of Stock Exchange securities, especially foreign and colonial bonds and debentures, are transferable by mere delivery (see page 274), if such securities are held by a trustee they must, under the provisions of Section 7 (1) of the Trustee Act, 1925, be deposited for safe custody and collection of income with a banker or banking company. In such a case, the trustees' bankers would be given an order to remove the coupons as they fall due, and instructed not to part with the securities without the order of the whole of the trustees (See Section 7 of the Trustee Act, 1925, and also *In re Pothomer*, [1906] 2 Ch 529 )

In *Magnus v. Queensland National Bank* (1888), 37 Ch D 466, a stockbroker, who was one of three trustees, and acted as broker for the trust, proposed to his co-trustees to sell Brighton stock belonging to the trust, and invest it in North-Eastern. The three trustees executed a transfer of the Brighton stock, for a nominal consideration,

to two persons who were officers of a bank at which the stock-broker was a customer. The broker gave the transfer as security for a loan by the bank to him, and the transfer was registered. Shortly after the broker paid off the loan, and the bank transferred the stock to purchasers from the broker, and, without giving notice to the broker's co-trustees, allowed the broker to receive the purchase-money. The broker invested the money in North-Eastern stock in his own name, and some months after sold the stock and misappropriated the proceeds. After the sale of the Brighton stock the broker had produced an account to his co-trustees, showing the sale of Brighton stock, and a re-investment in North-Eastern stock as still forming part of the trust funds. Two years later the broker absconded. Here it will be seen that the broker's co-trustees were negligent in not seeing that North-Eastern stock was registered in the joint names of the trustees, but the Court of Appeal held that this did not discharge the defendant bank from liability, since the bank receiving from three persons a certain amount of railway stock as security for a loan, on the loan being paid, transferred the stock to purchasers, allowing the purchase-money to be received by one of three trustees, and that, although the trustees had been negligent, the loss was directly attributable to the action of the bank—as Lord Justice Bowen humorously put it. “A man knocks me down in Pall Mall, and when I complain that my purse has been taken the man says, ‘Oh, but if I had handed it back again you would have been robbed over again by somebody else in the adjoining street’—that is the argument of the learned counsel for the appellants as soon as the proposition for which they have contended is reduced to its bare bones.”

In the majority of instances the instrument creating the trust will contain a clause amplifying the powers of the trustee in regard to investment. Where, however, this is not so, the trustee must turn to the law laid down by the legislature for his guidance. In England, prior to the passing of the Trustee Act of 1889, Consols were the only securities authorized for trustees. Owing to the poor yield of interest and other causes, Parliament passed the Trust Investment Act, 1889, which gave a greatly extended list of securities, and this in turn was repealed and re-enacted by the Trustee Act, 1893, which consolidated the law on the subject. A further consolidation of the law took place with the property legislation of

1925, and at present the law as to trustees' investments is contained in the Trustee Act, 1925 (15 Geo. 5, c 19), and as this Act expressly defines the duties and liabilities of persons investing in trust funds, it is proposed to give the principal sections *in extenso*—

Section I provides—A trustee may invest any trust funds in his hands, whether at the time in a state of investment or not, in manner following, that is to say:

(a) In any of the Parliamentary Stocks or Public Funds or Government Securities of the United Kingdom.

(b) In real or heritable Securities in the United Kingdom including the security of a charge on freehold land by way of legal mortgage, and a charge under Section 33 of the Finance Act, 1896.

(c) In the Stock of the Bank of England or the Bank of Ireland.

(d) In India Seven, Five and a half, Four and a half, Three and a half, Three, and Two and a half per cent Stock, or in any other Capital Stock which may at any time be issued by the Secretary of State in Council of India, under the authority of any Act of Parliament, and charged on the revenues of India, or any other securities the interest in sterling whereon is payable out of and charged on the revenues of India

(e) In any securities the interest of which is for the time being guaranteed by Parliament

(f) In Consolidated Stock created by the Metropolitan Board of Works, or by the London County Council, or in Debenture Stock created by the Receiver for the Metropolitan Police District, or in Metropolitan Water Stock

(g) In the Debenture or Rent-charge or Guaranteed or Preference Stock<sup>1</sup> of any Railway Company in the United Kingdom incorporated by special Act of Parliament, and having during each of the ten years last past before the date of investment paid a dividend at the rate of not less than three per centum on its Ordinary Stock

(h) In the Stock of any Railway or Canal Company in the United Kingdom whose undertaking is leased in perpetuity or for a term of not less than two hundred years at a fixed rental to any such Railway Company as is mentioned in paragraph (g) of this subsection, either alone or jointly with any other Railway Company.

(i) In the Debenture Stock of any Company owning or operating

<sup>1</sup> See note on next page

a Railway in India the interest in sterling on which is paid or guaranteed by the Secretary of State in Council of India.

(j) In the "B" Annuities of the Eastern Bengal, the East Indian and the Scinde Punjaub and Delhi, Great Indian Peninsula and Madras Railways, or in any securities substituted therefor, and any like annuities which may at any time after the commencement of this Act be created on the purchase of any other railway by the Secretary of State in Council of India, and charged on the revenues of India, and which may be authorized by Act of Parliament to be accepted by trustees in lieu of any stock held by them in the purchased railway, also in Deferred Annuities comprised in the register of holders of Annuity, Class D, and annuities comprised in the register of Annuitants Class C of the East Indian Railway Company.

(k) In the Stock<sup>1</sup> of any Company owning or operating a Railway in India upon which a fixed or minimum dividend in sterling is paid or guaranteed by the Secretary of State in Council of India, or upon the Capital of which the interest is so guaranteed.

(l) In the Debenture or Guaranteed or Preference Stock<sup>1</sup> of any Company in the United Kingdom established for the supply of water for profit, and incorporated by special Act of Parliament or by Royal Charter, and having during each of the ten years last past before the date of investment paid a dividend of not less than five per centum on its Ordinary Stock.

(m) In nominal or inscribed stock issued, or to be issued, under the authority of any Act of Parliament or Provisional Order, by the Corporation of any Municipal Borough in the United Kingdom, having, according to the returns of the last census prior to the date of investment, a population exceeding fifty thousand, or by any County Council in the United Kingdom

(n) In nominal or inscribed stock issued, or to be issued, by any Commissioners incorporated by Act of Parliament for the purpose of supplying water, and having a compulsory power of levying rates over an area having, according to the returns of the last census prior to the date of investment, a population exceeding fifty thousand, provided that during each of the ten years last past before the

<sup>1</sup> In this Act "the expression 'Stock' includes fully paid up Shares; and so far as relates to Vesting Orders made by the Court under this Act includes any fund, annuity, or security transferable in books kept by any Company or Society, or by instrument of transfer either alone or accompanied by other formalities, and any Share or interest therein"

date of investment the rates levied by such Commissioners have not exceeded eighty per centum of the amount authorized by law to be levied

(o) In any stocks, funds, or securities authorized under the Colonial Stock Act, 1900, or any Act extending the same, but subject to any restrictions thereby imposed.

(p) In any local bonds issued under the Housing (Additional Powers) Act, 1919, and mortgages of any fund or rate granted after the passing of the 1925 Act under the authority of any Act or Provisional Order by a local authority (including a County Council) which is authorized to issue local bonds under that Act.

(q) In any stock or securities issued in respect of any loan raised by the Government of Northern Ireland.

(r) In any of the stocks, funds, or securities for the time being authorized for the investment of cash under the control or subject to the order of the Court

The trustees may also from time to time vary any such investment.

In order to prevent as far as possible the necessity for trustees establishing sinking funds in connection with trusts, and to protect the interests of remaindermen in securities, the Act by sect. 2, subsection 2, places a limitation on some of the investments in the above list as follows—

A trustee may, under the powers of the Trustee Act, 1925, Section 2, invest in any of the securities mentioned or referred to in Section 1 of the same Act, notwithstanding that the same may be redeemable, and that the price exceeds the redemption value—

“Provided that, in the case of any stock mentioned or referred to in paragraphs (g), (i), (k), (l), (m), (o), (p), and (q) of subsection (1) of Section 1 of this Act, which is liable to be redeemed at par or at some other fixed rate, a trustee shall not be entitled to purchase the stock—

“(a) At a price exceeding 15 per centum above par or such other fixed rate, nor

“(b) If the stock is liable to be so redeemed as aforesaid within 15 years of the date of purchase, at a price exceeding its redemption value.”

A trustee may retain until redemption any redeemable stock, fund, or security which may have been purchased in accordance with the powers of the Act, or any statute replaced by it.

Debentures issued by an agricultural mortgage loan company under the Agricultural Credits Act, 1928, and the Agricultural Credits (Scotland) Act, 1929, are now included among the securities in which a trustee may invest trust funds

The investments authorized for the investment of cash under control or subject to the order of the Court (referred to in paragraph (7) of subsection (1) of Section 1 of the Act) are contained in Order XXII, Rule 17, of the Rules of the Supreme Court made by the Lord Chancellor, and have been amended from time to time and are as follows—

Two-and-three-quarters per Cent Consolidated Stock (called since 5th April, 1903, two-and-a-half per Cent Consolidated Stock)

Consolidated, Three Pounds per Cent Annuities.

Reduced Three Pounds per Cent Annuities

Two Pounds Fifteen Shillings per Cent Annuities

Two Pounds Ten Shillings per Cent Annuities.

Local Loans Stock under the National Debt and Local Loans Act, 1887

Exchequer Bills

Bank Stock

India Three-and-a-Half per Cent Stock

India Three per Cent Stock.

India Two-and-a-Half per Cent Stock

Indian guaranteed railway stocks or shares, provided in each case that such stocks or shares shall not be liable to be redeemed within a period of fifteen years from the date of investment

Stocks of Colonial Governments guaranteed by the Imperial Government, or in respect of which the provisions of the Colonial Stock Act, 1900, are for the time being complied with, and subject to the conditions and restrictions imposed by Section 2 of the Trustee Act, 1925.

Mortgage of freehold and copyhold estates respectively in England and Wales.

Metropolitan Consolidated Stock, Three Pounds Ten Shillings per Cent.

Three per Cent Metropolitan Consolidated Stock.

Two-and-a-Half per Cent Metropolitan Consolidated Stock.

Two-and-a-Half per Cent London County Consolidated Stock.

Three per Cent London County Consolidated Stock.

Inscribed Two-and-a-Half per Cent Debenture Stock issued by the Corporation of London, and secured by a trust deed dated the 24th of June, 1897.

Inscribed Three per Cent Debenture Stock issued by the Corporation of London, and secured by a supplemental trust deed dated 1st June, 1905

London County Council Three-and-a-Half per Cent Stock.

Registered London County Five-and-Three-quarters per Cent Bonds, 1930

Five per Cent London County Consolidated Stock, 1940-60.

Four-and-a-Half per Cent London County Consolidated Stock, 1945-85.

Debenture, Preference, Guaranteed, or Rent-charge Stocks of Railway Companies in Great Britain or Northern Ireland having during each of the ten years next before the date of investment paid a dividend on Ordinary Stock or Shares

Debenture, Preference, Guaranteed, or Rent-charge Stocks of Railway Companies in Great Britain or Northern Ireland guaranteed by Railway Companies which own railways in Great Britain or Northern Ireland which have for ten years next before the date of investment paid a dividend on Ordinary Stock or Shares.

Nominal Debentures or nominal Debenture Stock under the Local Loans Act, 1875, or under the Isle of Man Loans Act, 1880, provided in each case that such Debentures or Stock shall not be liable to be redeemed within a period of fifteen years from the date of investment.

Guaranteed Land Stock issued under the Act 54 & 55, Vict. 148. Guaranteed Two-and-Three-quarters per Cent Stock issued under the Act 3, Edw VII, c. 37. Guaranteed Three per Cent Stock issued under the Act 9, Edw. VII, c. 42.

Three-and-a-Half per Cent Loan of the Corporation of the City of London (Bridges) (1913-1973).

War Loan Three-and-a-Half per Cent Inscribed Stock (1925-1928) [now redeemed]

War Loan Four-and-a-Half per Cent Inscribed Stock (1925-1945)

And any other security issued under the authority of Parliament and charged on the consolidated fund

It will be noticed that this list, which is not so full as the list given

in the Trustee Act, is somewhat fuller in other respects, for example, subsection (g) of the list in the Trustee Act stipulates that the debenture and other stocks referred to in the section shall have paid a dividend of not less than 3 per cent on their ordinary shares for 10 years prior to investment. Investments made under the rules of Court need only have paid dividend at any rate whatsoever.

These rules are liable to alteration at any time by the Lord Chancellor pursuant to the powers vested in him by the Act of 1860, and it would be advisable to consult "The Annual Practice" or "The Yearly Practice" for any extension or alteration in them.

Formerly no investment could be made in the securities of Colonial Government, but by the Colonial Stock Act, 1900 (63 & 64 Vict. c. 62) it is provided (sect. 2)—

The securities in which a Trustee may invest under the powers of the Trustee Act, 1893, shall include any colonial stock which is registered in the United Kingdom in accordance with the provisions of the Colonial Stock Acts, 1877 and 1892, as amended by this Act, and with respect to which there have been observed such conditions (if any) as the Treasury may by order notified in the *London Gazette* prescribe. The restrictions [i.e. as to investment in redeemable stocks] mentioned in section 2, subsection (2), of the Trustee Act, 1893 [now section 2 of the Trustee Act, 1925], with respect to the stocks therein referred to shall apply to Colonial Stock. The Treasury shall keep a list of any Colonial Stocks in respect of which the provisions of this Act are for the time being complied with, and shall publish the list in the *London* and *Edinburgh Gazettes*, and in such other manner as may give the public full information on the subject.

The following are the conditions under section 2 of the Act prescribed by Treasury Order, dated 6th December, 1900—

1. The Colony shall provide by legislation for the payment out of the Revenues of the Colony of any sums which may become payable to stockholders under any judgment, decree, rule, or order of a Court in the United Kingdom.
2. The Colony shall satisfy the Treasury that adequate funds (as and when required) will be made available in the United Kingdom to meet any such judgment, decree, rule, or order.
3. The Colonial Government shall place on record a formal expression of their opinion that any Colonial legislation



which appears to the Imperial Government to alter any of the provisions affecting the stock to the injury of the stockholder, or to involve a departure from the original contract in regard to the stock, would properly be disallowed.

As the list of the stocks which have complied with the terms of the Act will constantly be added to as new issues appear, it has not been included in this chapter. Reference should be made to the "Yearly Supreme Court Practice," and the latest Government gazettes should be consulted, or application made to the Agent-General for an autonomous colony, or to the Crown Agent for the Crown Colonies, who will afford full information on the subject. This will not, however, be necessary in the case of a new issue where it is a public one as the foot-note at the end of the usual advertisement will give the necessary information.

A trustee is not liable for breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorized by the trust instrument or by the general law.

By section 7 of the Trustee Act, 1925, a trustee may, unless expressly prohibited by the instrument creating the trust, retain or invest in securities payable to bearer which, if not so payable, would have been authorized investments.

Securities to bearer retained or taken as an investment by a trustee (not being a trust corporation) must, until sold, be deposited by him for safe custody and collection of income with a banker or banking company. A direction that investments shall be retained or made in the name of a trustee is not, it should be noticed, deemed to be an express prohibition for the purposes of section 7.

A trustee is not responsible for any loss incurred by reason of the deposit with a banker of the securities to bearer and any sum payable in respect of the deposit and collection of income is payable out of the income of the trust property.

Section 7 of the Trust Investment Act, 1889, enacts "Where the Council of any County or Borough or any urban or rural Sanitary Authority" (now District Council) "are authorized or required to invest any money for the purpose of a loans fund or sinking fund, any enactment relating to such investment shall be modified so far as to allow such money to be invested in any of the stocks, funds, shares, or securities in which trustees are authorized by this Act to invest,

except that such Council or Authority shall not by virtue of this section invest in any stocks, funds, shares, or securities issued or created by themselves, nor in real or heritable securities

“ Provided that it shall not be lawful for any such Council or Authority to retain any securities which are liable to be redeemed at a fixed time at par or at any other fixed rate, and are at a price exceeding their redemption value, unless more than fifteen years will elapse before the time fixed for redemption ”

Capital money arising under the Settled Land Act, 1925, may, pursuant to section 73, be invested wholly or partially in Government Securities, or other Securities in which the trustees of the settlement are by the settlement or by law authorized to invest trust money of the settlement, with power to vary the investment into or for any other such securities.

#### NORTHERN IRELAND AND IRISH FREE STATE INVESTMENTS

The Irish Land Act, 1909, Section 38, provides—

(1) Where any land, purchased by the means of an advance under the Land Purchase Acts, is settled land within the meaning of the Settled Land Acts, 1882 to 1890, the trustees of the settlement may, on the request of the tenant for life, notwithstanding anything in the settlement to the contrary, invest the purchase-money or any part thereof in the following manner (that is to say).

(a) With the sanction of the Public Trustee—

(i) In any of the public stocks or funds or Government securities of any foreign government or state; or

(ii) In mortgages, bonds, debentures, or debenture stock charged upon the undertaking of any railway company in the United States of America, Mexico, the Argentine Republic, or Canada, which has, during each of the five years last past before the date of investment, paid a dividend on its preference stock (if any) or its ordinary stock,

(b) And without such sanction—

(i) In the mortgages, bonds, debentures, or debenture stock of any railway company in the United Kingdom incorporated by special Act of Parliament which has, during each of the five years last past before the date of investment, paid a dividend

on its preference stock (if any) or its ordinary stock, or in the preference stock of any such railway company which has, during a like period, paid a dividend on its ordinary stock

(ii) In the stocks or shares of any tramway or light railway, dividends upon which are guaranteed under the Tramways (Ireland) Acts, 1860 to 1900, or

(iii) In the stock, mortgages, bonds, debentures, or debenture stock issued or to be issued by the council of any county or urban district in the United Kingdom under the authority of any Act or Provisional Order,

and may from time to time, subject to the like conditions, vary any such investment.

(2) The Public Trustee, in any case in which this sanction is required for an investment under this section, shall, before sanctioning the investment, satisfy himself that there is a reasonable probability that the investment will, if realized on the death of the tenant for life or the termination of the trust, produce an amount not less than the sum invested, and the Public Trustee shall not incur any liability on account of any sanction given or withheld by him in good faith

(3) The powers of investment conferred upon trustees by this section shall be in addition to any powers of investment conferred on them by the terms of the settlement or by Act of Parliament, and such last-mentioned powers may be exercised notwithstanding anything to the contrary in the settlement.

(4) A trustee shall not incur any liability by reason of any investment made by him in exercise of the powers conferred by this section.

Section 51 (4) of the Irish Land Act, 1903, provides—

(4) In the case of all proceedings in relation to any lands sold under the Lands Purchase Acts, or any charges thereon, or any moneys realized thereby, if it appears to the Court that a trustee is, or may be, personally liable for any breach of trust, whether the transaction alleged to be a breach of trust occurred before or after the passing of this Act, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the Court in the matter in which he committed such breach, then the Court may relieve the trustee, either wholly or partly, from personal liability for the same.

*Public Trustee.*—Section 52 of the 1903 Act provides : (1) For the purpose of the Lands Purchase Acts there shall be a public trustee (2) The public trustee shall be a corporation under that name, with perpetual succession and an official seal, and may sue and be sued under that name.

(3) The Lord-Lieutenant shall appoint a fit person to the office of public trustee to hold that office during pleasure.

(4) The public trustee shall, out of money provided by Parliament, be paid such salary as the Treasury may sanction.

(5) The public trustee may employ such officers and persons as, subject to the sanction of the Treasury, he may find necessary for the purposes of this Act, and those officers and persons shall be remunerated at such rates and in such manner as the Treasury may sanction, and the expenses of and incidental to the office of public trustee shall be paid as part of the expenses of the Land Commission.

(6) No fees shall be payable to the public trustee for any services rendered by him under this Act.

(7) The public trustee shall not incur any liability by reason of any act or thing done by him, in good faith, in pursuance of the provisions of this Act.

(8) The public trustee may hold property jointly with any persons or corporation aggregate or sole, and under that name may be entered in the books of any company or person as holder, either alone or jointly with any persons, of stock, shares, or securities entered in such books

(9) The order of the public trustee, given under his seal, shall be necessary and sufficient authority to any such company or person for the transfer of any such stock, shares, and securities, so far as respects the interest of the public trustee.

(10) Where any settled land has been purchased by means of an advance under the Land Purchase Acts, and there is no trustee of the settlement, the public trustee may be appointed by the Land Commission to be trustee of the settlement.

(11) Where the trustees of any such settlement refuse or neglect to invest the purchase-money of any securities authorized in pursuance of the last preceding section, the tenant for life may apply to the Land Commission to substitute the public trustee for those trustees, and the Land Commission may by order make such substitution accordingly.

(12) The trustees of any such settlement may apply to the Land Commission to be discharged from their trust and that the public trustee be appointed in their place, and the Land Commission may, if they think fit, make an order accordingly.

(13) Where the public trustee is appointed trustee of any settlement under the provisions of this section, the Land Commission may make such further or other orders as may be necessary for the purpose of vesting the trust fund in him, or otherwise as the circumstances of the case may require.

(14) The powers conferred on the Land Commission by the foregoing provisions of this section may be exercised by the Land Judge in any case where the purchase-money of land, sold under the Land Purchase Acts, is distributable or has been distributed by him, and those provisions shall apply accordingly with the substitution of the Land Judge for the Land Commission.

(15) Rules may be made by the Land Judge and the Land Commission, with the approval of the Lord-Lieutenant, for the purpose of carrying this section into effect, and for regulating the exercise of the powers and duties of the public trustee; and in particular may provide that the trustee shall, on the request of any person proposing to sell an estate, give an estimate of the probable financial effect of such sale.

### SCOTCH INVESTMENTS

The principal Act regulating the investment of Scotch Trust Funds is the Trusts (Scotland) Act, 1921 (11 & 12 Geo 5, c 58). By section 10 trustees under any trust may, unless expressly prohibited by the terms of the trust, invest the trust funds—

(a) In the purchase of—

(1) Any of the Government stocks, public funds, or securities of the United Kingdom;

(2) Stock of the Bank of England,

(3) Any securities the interest of which is or shall be guaranteed by Parliament,

(4) Debenture Stock of Railway Companies in Great Britain incorporated by Act of Parliament,

(5) Preference, Guaranteed, Lien, Annuity, or Rent-charge Stock, the dividend on which is not contingent on the profits of the year,

of such Railway Companies in Great Britain as have paid a dividend on their Ordinary Stock for ten years immediately preceding the date of investment ;

(6) Stock or annuities issued by any Municipal Corporation in Great Britain, which annuities, or the interest or dividend upon which stock, are secured upon rates or taxes levied by such Municipal Corporation under the authority of any Act of Parliament ;

(7) Redeemable stock issued under the Local Authorities Loans (Scotland) Acts, 1891 and 1893, by any local authority in Scotland ,

(8) Consolidated stock created by the Metropolitan Board of Works or by the London County Council and Metropolitan Water Stock created by the Metropolitan Water Board ,

(9) East India Stock ,

(10) Feu-duties or ground-annuals

(b) In loans—

(11) On the security of any of the stocks, funds, or other property aforesaid ;

(12) On real or heritable security in Great Britain ;

(13) On debentures or mortgages of Railway Companies in Great Britain, incorporated by Act of Parliament ;

(14) On bonds, debentures, or mortgages secured on rates or taxes levied under the authority of any Act of Parliament, by Municipal Corporations in Great Britain authorized to borrow money on such security ;

(15) On bonds, debentures, or mortgages secured on any rate or tax levied under the authority of any Act of Parliament by any local authority in Scotland authorized to borrow money on such security, including local bonds issued under the Housing (Additional Powers) Act, 1919 ,

(16) On Indian railway stock, debentures, bonds or mortgages on which the interest is permanently guaranteed by the Indian Government and payable in sterling money in Great Britain.

(c) In the purchase of or in loans on—

(17) Any stocks, funds, debentures, bonds, mortgages, or other securities for the time being approved for the investment of trust funds by the Court.

By section 33 of the Government of Ireland Act, 1920, any stock issued in respect of any loan raised by the Government of Southern Ireland or Northern Ireland is to be deemed to be included amongst

the securities in which a trustee may invest under the Trusts (Scotland) Act

Debentures issued by an agricultural mortgage loan company under the Agricultural Credits Act, 1928, and the Agricultural Credits (Scotland) Act, 1929, are now included among the securities in which a trustee may invest trust funds under the Trusts (Scotland) Act, 1921

Trustees under any trust may, unless specially prohibited by the constitution or terms of the trust, invest the trust funds in the purchase of any colonial stock which is registered in the United Kingdom in accordance with the provisions of the Colonial Stock Acts, 1877 to 1900, and is included in the list of colonial stocks kept by the Treasury as provided in the Colonial Stock Act, 1900: Provided that a trustee may not purchase at a price exceeding its redemption value any colonial stock which is liable to be redeemed within fifteen years of the date of purchase at par or at some other fixed rate, or purchase any colonial stock which is liable to be redeemed at par or at some other fixed rate at a price exceeding fifteen per cent above par or such other fixed rate (Section 11, Trusts (Scotland) Act, 1921.) Colonial stock in section 11 includes any stock to which section 2 of the Colonial Stock Act, 1900, applies by Order in Council under section 3 of the Colonial Development Act, 1929

A trustee having power to invest in real securities, unless expressly forbidden by the trust deed, may invest on any charge or on any mortgage on such charge made under the Improvement of Land Acts, 1864 and 1899, or on any charge created for payment of estate or other Government duty under the Finance Act, 1894, or the Finance (1909-10) Act, 1910

A trustee having power to invest in the mortgages or bonds of any railway company or of any other description of company may, unless the contrary is expressed in the trust deed, invest in the debenture stock of a railway company or such other company

A trustee having a general power to invest trust money in or upon the security of shares, stock, mortgages, bonds, or debentures of companies incorporated by or acting under the authority of an Act of Parliament or Royal Charter may invest in or upon the security of mortgage debentures duly issued under and in accordance with the provisions of the Mortgage Debenture Act, 1865

The above powers of investment are not held or construed as restricting or controlling any powers of investment of trust funds expressly contained in any trust deed

By section 15 of the 1921 Act, a trustee, unless authorized by the terms of his trust, must not apply for purchase, acquire, or hold beyond a reasonable time for realization or conversion into registered or inscribed stock any certificate to bearer or debenture or other bond or document payable to bearer



## CHAPTER XV

### OUTSIDE BROKERS

THE origin of the term "outside broker" probably arose about the time or soon after the building of the Stock Exchange. Men who, from various causes, were then excluded from its precincts, were still brokers and admitted as such by the Corporation of the City, and thus, though not members of the Stock Exchange, they were legally entitled to describe themselves as sworn stockbrokers. The public naturally would not readily appreciate the distinction to be drawn between members of the Stock Exchange who were brokers, and licensed brokers not members of the Stock Exchange. The abuses that consequently existed led to the passing of the Acts of 1870 and 1884. The legal effect of these Acts has been stated in an earlier portion of the book. The outside broker being no longer able to describe himself as a sworn stockbroker lost the advantage that the title gave him, but he still might carry on business as a broker. His business would hardly, however, have continued to grow and flourish as it did, but for the ingenious invention of the tape machine, which, first introduced on the New York Stock Exchange in 1867, about five years later made its appearance on the London Stock Exchange. The tape machine quotes the prices which obtain from time to time during the day on the market. These are supplied to subscribers of the Exchange Telegraph Co. The introduction of the tape machine was at first not received with much favour. Originally only one of the Company's representatives was allowed on the Stock Exchange by the Committee, but subsequently the number was permitted to be increased as its convenience and utility became appreciated. The method by which the information is obtained in the first instance is through the Company's representatives attending in the Stock Exchange and inquiring of the jobbers in the various markets the prices quoted for particular stocks. Possessed of this information, they convey the price to the Company's operators, who transmit it in turn to the Company's subscribers, and the result is seen on the tape which is reeled off the machine in the offices of the subscribers. The rise in the popularity of the machine led to a corresponding increase in the popularity of the outside broker,

and ultimately the Committee of the Stock Exchange intervened. One principal reason of this increase of popularity was due to the fact that the Stock Exchange speculator could see for himself the prices quoted of the various stocks on the tape machines of the outside broker, and as the broker provided rooms comfortably furnished and lavishly supplied with financial and daily papers, they formed an idle resort for many who hoped by speculation to enrich themselves. It was a favourite occupation with many to look in at lunch time to note the prices, or just about four o'clock when the last quotations were appearing on the tape. No doubt by reason of these facilities an enormous business was done by the outside broker, more especially during the existence of the great mining boom. Since the Stock Exchange authorities by declining to afford the Exchange Telegraph Company any assistance in collecting prices were able to exercise irresistible pressure on the Company, practically to stop its business, they were in a position to insist upon the withdrawal of the tape machines from the outside brokers' offices. The right of the Company to withdraw the machine was legally tested, but unsuccessfully, by one of the outside brokers, and the advantage that many of the outside brokers had hitherto gained was lost. It is interesting to note how prices had been known and made public prior to the collection by the Exchange Company's representatives and the introduction of the tape machine, for undoubtedly they had been made public from the earliest times. The curious, turning over the pages of *The Gentleman's Magazine* during the latter half of the eighteenth century, will find them quoted there. It is true that this list was the official list, and the stocks were few in number, but the fact of their existence in a published form shows that it was someone's business to obtain this information even from the earliest times. Before the Stock Exchange was housed, and whilst stock-jobbing centred round the coffee-houses and Change Alley, obviously anyone could ascertain the market price of a stock by simply mixing amongst the jobbers, but, later on, when the public were excluded, the prices had to be obtained from members leaving the house. The withdrawal of the tape machine from the outside broker did much to check his business, but it has failed to destroy it. Amongst the reasons that may be ascribed for its continued existence is the power the outside broker possesses of advertising his business, and

painting his success in forecasting the future in the most glowing colours, whilst the legitimate stockbroker is forbidden in any way to advertise himself. Another reason may be found in the fact that the ordinary individual is conscious that his dealings can only be on a small scale, and is consequently awed by the supposed magnitude of the transactions carried on by brokers on the Exchange. Such a man has generally but a little capital to invest, and therefore he fears that his business would not be welcome to a member of the Stock Exchange. Further, he knows no one to employ. This is probably the most potent factor.

The tricks and the wiles of some outside brokers, known as "bucket shops," have often been exposed. Yet it may be permitted here to recapitulate a few of their business methods. By specious paragraphs and enticing circulars, the uninitiated, and more especially country residents, are lured into the meshes of the "bucket shop business," as it is popularly called, more often to their sorrow and pecuniary loss than to their advantage. They make it their study to ascertain who are likely to prove customers of their wares. This they do by obtaining complete lists of shareholders in various companies. They then proceed to circularize them from the lists and addresses which are generally specially compiled from the records of shareholders at Somerset House. This circular will sometimes contain an offer to sell particular shares at a price below the market value. Enticed by the trap, cheques or postal orders are often sent, but neither shares nor money are returned. In this connection it should be observed that by Section 356 of the Companies Act, 1929, it is unlawful (except in certain specified cases) to make an offer in writing to any member of the public whose ordinary business does not include the buying or selling of shares, of any shares, unless the offer is accompanied by a statement in writing containing the various matters required by Sub-section (4) of that Section. The "specified cases" to which this provision does not apply are as briefly follows—

- 1 Where the shares are quoted or where permission to deal in respect of them has been given by any recognized Stock Exchange, or

- 2 Where the shares have been allotted or are agreed to be allotted to be sold to the public, or

- 3 Where the offer was to persons with whom the offerer has been in the habit of doing regular business

Reference should be made to Sub-section (4) of Section 356 for a list of the particulars that should be included in the statement above referred to.

By the same Section it is unlawful for any person to go from house to house (which term does not include an office used for business) offering shares for subscription or purchase to any member of the public.

Another method practised by the outside broker is to offer through the medium of the Press—especially the provincial Press—both to sell and buy shares in a particular company or companies. These shares are almost invariably shares of small face value denomination, a buyer and a seller having been secured, the broker is able to make a larger profit by bringing the two together than would be possible for a member of the Stock Exchange. The transaction is a genuine one, that is, there is an actual transfer of shares, but the seller does not sell at the best advantage for himself, neither does the buyer buy to the best advantage. Probably the best aid to the outside broker is the Press. Reports appear in the columns of some of the smaller financial organs of the success that is attending the mining operations of some mine in Africa, Australia, or elsewhere. These reports are often supplemented with private circulars or wires from the outside broker, who has probably some thousands of the shares on sale, and sent to persons whose names appear in the lists of mining shareholders supplied them. At one time they were able to transact a large business in vendors' shares, as a Stock Exchange Rule, since rescinded, provided that no dealings would be allowed in shares or securities issued to vendors, credited either as fully or partly paid until six months after the date on which permission was given for dealings in the shares or securities of the same class subscribed for by the public. This rule, however, did not necessarily apply to reorganizations or amalgamations of existing companies, or to cases where no public shares were issued, or to cases where the vendors took the whole of the shares issued for cash. It will be seen, therefore, that there would be considerable difficulty in disposing of them unless the services of the outside broker were requisitioned. A vendor came to terms therefore with an outside broker, who used his best endeavours to get rid of them to his clients, or otherwise by advertisements and other methods. One of the first points that promoters attend to is the making of a market in the House, and this is done occasionally by

giving a jobber a call of shares, sometimes a double option. So long as the market exists, the outside broker can quote market prices, but as soon as the market is withdrawn, sales even in his hands become difficult to accomplish. There is no doubt that Stock Exchange quotation of shares powerfully aids the outside broker in selling his wares, for many of the public regard the quotations appearing in the stock and share lists of the daily and financial Press as some guarantee that a company has a reasonable prospect of success.

It is not intended to deal at length with the methods of the outside broker, but the subject would be incomplete without some reference to the cover system pursued by outside brokers. This is generally a system of pure gambling, and transactions entered into are void under the Gaming Acts. It receives its name from the fact that the outside broker, before undertaking to transact business, requires cover or security. This is sent, and a purchase apparently made for the client at a price, although in fact no purchase is made, the broker simply recording the price at which he bought if the client were betting on the rise, or at which he sold if he were betting for the fall. The fluctuations of American shares are frequently sufficient to run off a cover of 1 per cent. in the course of a day or even a few minutes, especially when we consider that the difference between the buying and selling prices immediately absorbs the greater part of the cover, whether the operation is for the rise or fall. The reason why, in law, transactions with outside brokers are usually void, requires some explanation, and reference must be made on this point to the Gaming Acts, 1845 (8 & 9 Vict. c. 109), and 1892 (55 Vict. c. 9), to arrive at the distinction that exists between bargains done on the Stock Exchange, where the broker is the agent for the client in the transaction, the contract being entered into subject to the Stock Exchange rules, and bargains on the cover system with outside brokers, where the outside broker is a principal. Contract notes of outside brokers not infrequently contain a clause making them subject to the rules and regulations of the Stock Exchange, but these rules are not applicable, where the real transaction is something altogether different. This is a question of fact determined by all the circumstances of the case. In the *Universal Stock Exchange, Limited v. Strachan*, [1896] A.C. 166, the company bought during the years 1893 and 1894, and sold to the respondent Strachan various stocks and shares at the tape prices of the day. Bought and sold

notes were made out by the company in each transaction, stating that they acted as principal or jobber, and subject to the terms printed on the back. The terms of business, *inter alia*, as stated were—

“2. Every purchase or sale contracted by the company is a *bona fide* transaction for delivery on a specified settling day, and the company is always prepared, and by means of its capital able, to deliver or take up any stock it may at any time have bought or sold, and the contracts entered into by the company are not gaming or wagering. All bargains are to be completed on the settling day named in the contract, but any customer wishing to postpone completion of a purchase or sale may arrange with the company (upon terms) for postponement of completion until a future date (carry over), but the company being always prepared to complete on the settling day originally fixed may decline to postpone completion at its option.

“3 The company charges no commission or fees of any kind, but charges a fixed rate of interest at 5 per cent per annum on the purchase-money of all stocks, computed from date of purchase until completion. The buyer to receive from the seller all dividends falling due, while the account is ensuing, and the buyer paying all expenses of transfer of stocks. . .

“6. The completion of all purchases and sales shall take place at the company's office at noon on the day specified in the contract or otherwise as may be mutually agreed upon . . .

“8. The company shall have a lien until the account is closed and properly settled upon all the stocks, shares, moneys, or other valuables in its possession belonging to customers for the due performance of any contract or engagement which they may have entered into, with power to realize in case of default.”

Strachan had large dealings with the company, and handed them valuable securities as cover. In 1894 he brought an action against the company to recover these securities, alleging that the contracts were gambling or wagering transactions for differences. On the trial before Mr. Justice Cave, the Company called no witnesses, but the respondent was called, and letters and documents, showing the business that had been carried on, were put in as evidence.

Mr. Justice Cave, in summing up to the jury, stated the law as follows: “The question which you have to try is whether these

transactions were real bargains for purchase of stock, or whether they were simply gambling transactions intended to end in the payment of differences. . . . I have no doubt that most, if not all of you, are perfectly familiar with Stock Exchange transactions, but I may make use of that as an illustration of my meaning. A man goes to a broker and directs him to buy and sell so much stock, as the case may be. That may be, in the eye of the purchaser, a gambling transaction, or it may not. If he means to invest his money in the purchase of the stock which he orders to be bought, that undoubtedly is a perfectly legitimate and real business transaction. If he does not mean to take up his stock, if he means to sell again before the settling day arrives, that may be a gambling transaction so far as he is concerned, but it is not necessarily a gambling transaction so far as the broker is concerned; and in order to be a gambling transaction such as the law points out, it must be a gambling transaction in the intention of both parties to it." After dealing with the evidence and the terms of business, Mr Justice Cave concluded thus "Notwithstanding those ostensible terms of business, was there a secret understanding that the stock should never be called for or delivered, and that differences only should be dealt with? If there was not that secret understanding, then he is not entitled to recover them, and that is the only question with which I need trouble you."

The jury found the transactions were gambling transactions and judgment was entered for the plaintiff, Strachan.

The company moved the Court of Appeal to set aside the verdict, contending that there was no evidence to go to the jury in support of the plaintiff's case; that the jury were misdirected in that the judge did not tell them that the contract in effect was at the option of either party enforceable at law, and in not telling them that there being a contract in existence they must find for the defendants unless there was sufficient evidence before them that both parties had entered into another contract that the existing contract should never be enforced by either party, and was to be regarded as merely colourable, and in telling them that if they thought the transactions were by way of gaming and wagering, the plaintiff was entitled to recover the securities. The Court of Appeal dismissed the appeal. The company appealed to the House of Lords, who affirmed the decision of the Court of Appeal. The argument for the appellants was that where there was a contract of sale and purchase with the

right to insist upon delivery on receipt of the shares, it could not be a wager, even though neither party intended to enforce the right. The mere existence of the right was sufficient. Lord Herschell, in the course of his judgment, dealt with this argument, he said. "The proposition amounts to this, that parties who intended to gamble with one another, but wanted to have the security against one another of being able in a court of justice to recover their bets, could compel a court of justice to adjudicate and secure to them their bets by a judgment, if only they inserted in their contract a provision which might in certain events become operative to compel the goods to be delivered and received, although neither of them anticipated such a contingency, the purpose of inserting the provision creating an obligation being only to cloak the fact that it was a gambling transaction, and enable them to sue one another for gambling debts."

It will be seen from this case that the outside broker cannot secure himself by the form of the contract, if in reality the contract is one for the payment of differences, or put in another way, the terms of the contract are immaterial if there is an understanding that differences only shall be paid. The outside broker is usually although not necessarily, a principal; not necessarily, for he may in fact be an agent; but if he is a principal and the transaction is to deal in differences, the transaction is void under the Gaming Act, 1845, s 18 (*Grizewood v Blane* (1851), 11 C B 526, *Barry v. Crosskey* (1861), 2 J & H 1, *Cooper v. Neil*, [1878] W.N 128. On the other hand, where the agreement between the client and the broker renders it necessary that the broker should himself as principal enter into real contracts of purchase and sale with jobbers, and the broker does so and incurs obligations for which actions could be brought against him for non-performance, he is entitled to be indemnified (*Thacker v. Hardy* (1878), 4 Q.B D. 685). The statute only affects the contract which makes the bet or wager. Although gaming and wagering contracts are not illegal, they cannot be enforced (*Fitch v Jones* (1855), 5 E & B 238). Nor can money paid under them be recovered, since the Gaming Act of 1892 declares that any promise, express or implied, to pay any person any sum of money paid by him in respect of a contract rendered null and void by the Gaming Act, 1845, or to pay any sum by way of commission or reward for any services in relation thereto is null and void.



In *Forget v. Ostagny*, [1895] A.C. 318, where a Montreal stock-broker was employed to make actual contracts of purchase and sale, in each case completed by delivery and payment, by a principal who never contemplated investment but speculation, it was vainly argued that the transaction was void under Article 1927 of the Court Code, which does not differ substantially from the Gaming Act, 1845. The Privy Council declined to accede to this contention, since the plaintiff as broker gained nothing whatever way the transaction went, and the essence of gaming and wagering is that one party is to win and the other to lose upon a future event which at the time of the contract is of an uncertain nature. In *In re Gieve*, [1899] 1 Q.B. 794, the question of wagering contracts with an outside broker was once more considered. There a commission agent named Moss claimed in the bankruptcy of Gieve, who traded under the name of John Shaw. The following was a specimen of the form of sold note—

“LONDON, 21st April, 1897.

John Shaw to J Moss, Esq.

I beg to advise having sold to you—

	Cover.	Price.
20 Canadas .. . . .	1 %	50½

Plus ¼th if stock is taken up For account, end April Errors excepted. Subject to the conditions at back.”

The endorsed conditions of contract were as follows—

- “1. All stocks or shares become closed without notice whenever the cover is exhausted, so as to limit the liability of the operator, unless arrangements are made to the contrary.
2. All stocks or shares, unless closed prior to the first day of the account, must either be taken up or carried over to the next account.
3. If contangoes or backwardations are not settled separately, the cover will be increased or reduced by the same amount.
4. If it is desired to increase cover, cash must accompany order before the margin is reached, unless arrangements are made to the contrary. And any orders for increasing cover, if not altered before the close of business on one day, must hold good till the opening price of the next day.

5. It is to be distinctly understood that I am prepared to deliver the stock or shares to which this contract refers, if demanded, but require cash on the first day of the account for securities I have to deliver to customers."

The trustee in bankruptcy rejected the claim by Moss, based upon judgments in respect of a balance of account and damages for non-delivery against Gieve. Moss appealed, and on the motion it was elicited that he was a man of small means, that the transactions consisted in speculations with Gieve in which the differences were given or received on the rise or fall of stocks and shares, Moss giving Gieve a cover of 1 per cent, and these differences were the subject of periodical accounts between them. Moss deposed that he had frequently demanded delivery of the shares, but admitted that he had not paid or even offered to pay cash on the first day of the account, as required by his contract, as a condition for delivery, and that he was never in a position to pay without borrowing.

Mr. Justice Wright reversed the trustee's finding, and said that though there was the gravest suspicion that the transactions between the parties were purely gambling transactions, there was not sufficient evidence that the parties had laid their heads together to conceal a bargain for differences only under cover of a bargain which, though no doubt *prima facie* resulting in differences only, was yet to some extent a real bargain.

On appeal to the Court of Appeal this decision was reversed. In his judgment the Master of the Rolls was of opinion that in the form of agreement it was a gambling transaction. "It runs thus," he said " 'I beg to advise having sold to you 20 Canadas,' at a certain price. If that were all, it would be an ordinary sold note. There would be nothing on the face of it to show it did not mean what it said. It might, no doubt, be proved by parol evidence that the contract did not represent the real meaning of the parties, but here we have something else which to my mind is quite conclusive. 'Plus  $\frac{1}{8}$ th, if stock is taken up.' The expression, 'if taken up' shows plainly that the parties do not intend that the stock shall be taken up; that the buyer need not take it up unless he chooses, but that if he does he is to pay the extra one-eighth. This is not, on the very face of it, therefore, a bargain for sale or purchase at all, and this is where Wright, J., has, in my opinion, failed to give effect to the real intention of the parties as expressed by the terms of the bargain

“Then looking at the conditions, what do we find? These conditions make the transaction look much more like a bargain for differences than an ordinary sale of stock. It appears to me that the true meaning of this contract, and the effect really intended by both parties, to be gathered from the language used, is this ‘This is a bargain for differences, but if you, the buyer, like to pay  $\frac{1}{8}$ th more, then I, the seller, will deliver at the increased price.’”

The Master of the Rolls, dealing with the argument that the transaction was not a gaming one by reason of the option given to purchase the stock, said that “there was no obligation whatever on the buyer to accept delivery, nor on the seller to deliver except upon the payment of the extra one-eighth; he never could have called upon the buyer to pay this extra sum; had he done so the buyer might have answered that he would only pay the difference.”

It may be doubted whether the insertion of a term in the contract for differences enabling the parties to turn the contracts for differences into real contracts by giving power to call for the stock would protect an outside broker making such a contract. The argument that it would, based upon *Shaw v Caledonian Ry Co* (1890), 17 R. (Ct of Sess), 466, 475, *et seq.*, and the *Universal Stock Exchange, Ltd v. Stevens* (1892), 40 W.R. 494, was repudiated by the House of Lords in the *Universal Stock Exchange v Strachan*, [1896] A.C. 166, 173, and Lord Herschel said he should require much consideration before he gave his assent to such a proposition. See Lindley, M.R. *In re Gieve*, [1899] 1 Q.B. 794, at p. 800.

It must not be presumed that all outside brokers are of the “bucket shop” type, as there are some who conduct a perfectly legitimate business in stocks and shares. There are some firms whose clientele consists mostly of foreign banks and stockbrokers. Some of the large foreign banks are closely allied with such houses and assist them with capital. These outside brokers do a regular stock and share-dealing business without the objectionable cover system. It is difficult to find a *raison d’être* for these firms, but they probably succeed on account of their more intimate knowledge of the peculiar requirements of their customers.

## CHAPTER XVI

### STOCK EXCHANGE DEALINGS AND THE GAMING ACTS

A VERY natural question is sometimes asked as to why bargains of a speculative nature on the Stock Exchange do not fall within the Gaming Acts. The reason why, at first sight, is not perhaps easy to understand, but the difference may be perceived on a short examination of the nature of a Stock Exchange transaction. A contract on the Stock Exchange is never a contract for the payment of a difference, but is a real transaction for cash or for a day named contemplating the actual transfer or delivery of the stocks, etc., and this transfer and delivery can only be rendered unnecessary by a new and equally real bargain on the one part to accept and pay for on the same day, and on the other part to transfer or deliver an equivalent amount of the same stock. A member having bought stock which he is unable or unwilling to take up balances the transaction by selling a similar amount of (but not the identical) stock for the same settling day for which the bargain was originally made, so as to enable that particular transaction to be written off and balanced. The whole amount of stock or shares to be taken up and delivered balances itself at all times, but the amount of stock to be accepted from or delivered to the several persons with whom any member has dealings is liable to vary with every new transaction entered into (*Thacker v. Hardy* (1878), 4 Q.B. D., 685, *Ex parte Grant, In re Plumbly* (1880), 13 Ch.D., 667, *Ex parte Phillips* (1861), 30 L. J., Bkcy. 1, *Ex parte Marnham* (1861), 30 L. J., Bkcy. 3, *Marten v. Gibbon* (1875), 33, L. T., 561; *In re Hewett, Ex parte Paddon* (1893), 9 T. L. R., 166; *Forget v. Ostigny*, [1895] A. C., 318; *Lightbody v. Rahbula* (1895), 12 T. L. R., 102). Such being the nature of a Stock Exchange transaction, it became immaterial that the intention of the buyer or the seller in entering into a contract was to speculate, as will be seen by the following illustration. A agrees to purchase a quantity of goods, his desire to purchase being stimulated by the belief that before the actual time of payment arrives he will be in a position to sell the goods at a profit. If he is unable to sell the goods, he must pay for them. It is obvious that the intention or motive of A, the purchaser, here has nothing to do

with the contract, except in so far as A's belief in the rising value of the articles is the inducement to cause him to enter into it, but this intention, motive, or inducement is only one of the ordinary accompaniments of the making of a contract. Contracts are not entered into because the persons contracting believe that they will lose thereby, but because they believe that they will in some way prove beneficial to them. It will therefore be seen that if the purchaser's intention is not the test, then some other test must be applied to discover what is a gaming contract. The Gaming Act, 1845, section 18, provides that "all contracts or agreements, whether by parol or in writing, by way of gaming or wagering shall be null and void, and no suit shall be brought or maintained in any court of law or equity to recover any sum of money or valuable thing alleged to be won upon any wager, or which should have been deposited in the hands of any person to abide the event on which any wager should have been made. . . ." What is wagering? For it is clear that the term gaming could have no application. A wagering contract may be defined as a contract by which one person may win or another may lose upon a future uncertain event, if the two parties agree at the time of entering into it that this is the object of the contract. But it is not a wagering contract for A to promise ten pounds if he (A) makes a profit of £100 on an anticipated rise in the value of shares, since there can be no wager unless it is possible for B to lose as well as A.

A time bargain, if its meaning in its proper sense is taken, is merely a contract for the future delivery of something, the amount or value of which cannot be ascertained, but it is not necessarily a wager so as to fall within the provisions of the 1845 Act. "For instance," said Lord Justice Cotton in *Thacker v. Hardy* (1878), 4 Q.B.D. 685, 696, "the sale of next year's apple crop is a transaction in which at a future time the parties may be respectively gainers or losers according to the happening of the event, but the essential element of a wagering contract is wanting." "It is not easy to define with precision," said Mr. Justice Hawkins in *Carhill v. The Carbolic Smoke Ball Company*, [1892] 2 Q.B. 484, 490, "what is the narrow line of demarcation which separates a wagering from an ordinary contract, but according to my view, a wagering contract is one by which two persons professing to hold opposite views touching the issue of a future uncertain event mutually agree that, dependent upon the

determination of that event, one shall win from the other, and the other shall pay or hand over to him a sum of money or other stake, neither of the contracting parties having any other interest in that contract than the sum or stake he will so win or lose, there being no other real consideration for the making of such contract by either of the parties. It is essential to a wagering contract that each party may under it either win or lose, whether he will win or lose being dependent on the issue of the event, and therefore remaining uncertain until that issue is known. If either of the parties may win but cannot lose or may lose but cannot win, it is not a wagering contract. It is also essential that there should be mutuality in the contract. For instance, if the evidence of the contract is such as to make the intentions of the parties material in the consideration of the question whether it is a wagering one or not, and these intentions are at variance, those of one party being such as if agreed in by the other would make the contract a wagering one, whilst those of the other would prevent it from becoming so, this want of mutuality would destroy the wagering element of the contract and leave it enforceable by law as an ordinary one (*Grizewood v. Blane* (1851), 11 C.B. 526; *Thacker v. Hardy* (1878), 4 Q.B.D. 685; *Blaxton v. Pye* (1766), 2 Wils. 309). No better illustration can be given of a purely wagering contract than a bet on a horse race. A backs Tortoise with B for £100 to win the Derby. B lays ten to one against him, that is, 1,000 to 100. How the event will turn out is uncertain until the race is over. Until then A may win £1,000 or he may lose £100, B may win £100 or he may lose £1,000, but each must be a winner or loser on the event. Under the wager neither has any interest except in the money he may win or lose by it. True it is that one or both of the parties may have an interest in the property of the horse, but that interest is altogether apart from the bet, and each party is in agreement with the other as to the nature and intention of his engagement."

If the contract was that A should buy Tortoise for £200, and if he won the Derby, he would pay another £800, a matter which depended on a future event, that would not be a gaming transaction, because they had a proprietary interest in the subject-matter—Tortoise—which passed from one to the other. (See *Iremonger & Co v. Dyne* (1928), 44 T.L.R. 497).

In *Iremonger & Co v. Dyne* (1928), 44 T.L.R. 497, Scrutton, L.J.,

said: "The question in the case may be stated very shortly. The action is brought on twelve contracts of purchase of foreign exchange. The defence set up is that these are gaming contracts unenforceable under the Gaming Act. The transactions between the plaintiffs and the defendant extend over three years, although the particular sued for covers only the period of two months in 1926 and 1927 . . . I am not going to attempt exhaustively to define what is a gaming or wagering contract. Lord Justice Cotton has attempted a definition in *Thacker v. Hardy* when he says 'The essence of gaming and wagering is that one party is to win and the other to lose upon a future event, which at the time of the contract is of an uncertain nature—that is to say, if the event turns out one way, A will lose, but if it turns out the other way he will win.' With great respect, I think that that definition is not exhaustive. If goods are sold to be delivered three months hence at a fixed price, and the price falls below or goes above that figure, the price at the date fixed will determine whether there is a profit or a loss, but that is not a gaming or wagering contract. Lord Justice Cotton has omitted any such consideration."

It will be seen from these definitions of wagering that ordinary Stock Exchange transactions do not fall within the meaning of the Gaming Acts.

In *Thacker v. Hardy* (1878), 4 Q B D 685, the plaintiff, a broker, had been employed by the defendant to speculate for him on the Stock Exchange, and to the plaintiff's knowledge the defendant did not intend to accept the stock bought for him or to deliver the stock sold by him, but expected the plaintiff would so arrange matters that nothing but differences should pass between them. The plaintiff knew that unless he could arrange matters for the defendant he would be unable to meet the engagements which the plaintiff might enter into for him. The plaintiff accordingly entered into contracts on the defendant's behalf, upon which the plaintiff became personally liable according to the rules of the Stock Exchange, and he sued the defendant for indemnity against the liability incurred by him, and for commission as broker. It will be noticed that here both the client and the broker knew that the client was speculating, but then the question was not concluded by knowledge of that fact. "The question is," said Lord Justice Bramwell, "not between the jobber in the house and the broker. The bargains made by the plaintiff

were what they purported to be ; they gave the jobber a right to call upon the broker or the principal to take the stock, and they gave the broker the right to call upon the jobber to deliver it. There was nothing in the transaction from which the jobber could tell whether the transaction was bona fide ; that is, for the purposes of investment, or whether it was a mere speculation ”

In *Weddle, Beck & Co v Hackett*, [1929] 1 K.B. 321, Swift, J., said : “ I find it impossible to come to the conclusion that the contracts which the plaintiffs entered into with third parties on behalf of the defendant were in any sense wagers . It is perfectly true that they were contracts entered into in order to enable the defendant to gamble in differences . The defendant never intended to take up the shares, his only object in entering into the contracts was to speculate in the difference of their values at different dates. There is no evidence whatever before me, and indeed the evidence is the other way, that the third parties had any such intention . They entered into the contracts as genuine transactions for the sale and purchase of shares which they were bound to deliver or to take up when called upon to do so, and there is a complete lack of that mutuality which is essential before the wagering element can enter into a contract so as to render it void or unenforceable ”

As between the broker and the client their respective rights or liabilities to sue or be sued arise from the contract : on the part of the broker, to be indemnified in respect of the obligations he has entered into on his client's behalf in pursuance of his instructions , on the part of the client, to receive the amount that the broker has received on his behalf under the contract or contracts that he has entered into, or from a breach of duty in improperly carrying out or neglecting to carry out his instructions

The sale of prospective dividends is now prohibited on the Stock Exchange, a rule declaring that no member shall enter into bargains on prospective dividends. The rule, however, has not always been in its present form. Formerly the Committee were content with not recognizing such bargains. Under the old form of the rule, a question arose as to whether bargains in future dividends were not within the Gaming Acts (*Marten v Gibbon* (1875), 33 L.T. 561) . The facts were that the plaintiffs who were stockbrokers had been employed by the defendant to sell for him the next dividend on £50,000 of South-Eastern Railway A Deferred Stock. The plaintiffs sold it to a firm



of Stock Exchange dealers, the dividends declared being in excess of the price at which the plaintiffs had sold them. The plaintiffs requested the defendant to authorize them to pay the difference to the firm of dealers. The defendant having refused, the plaintiffs paid the amount and sued the defendant on the implied indemnity. There was no evidence as to whether the defendant was at the time of the contract in possession of the £50,000 of stock. The Court declined to say that this was a gaming transaction, since it must be assumed in the absence of any evidence to the contrary that the defendant had the £50,000 of stock in his possession at the time of the contract. Even if it were a wager between the broker and his client, it could not be assumed that the jobbers were aware of that fact, that the rule only meant that the contract would not be enforced by the Committee by expulsion, and that otherwise the contract between the parties was perfectly good.

The question of how far a call option fell within the Gaming Acts was considered in the case of *Buntenlandsche Bankvereinigung v. Hildersheim* (1903), 19 *T L R* 641, where the Court of Appeal decided that the contract was not a wagering contract and was valid, but it would seem that where the only object of the parties was to profit by the rise or fall of stock, the bargain, though enforceable between the parties, would be a wagering contract (*Universal Stock Exchange v Strachan*, [1896] *A.C* 166).

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## CHAPTER XVII

### TERMS IN USE ON THE STOCK EXCHANGE

**A or Deferred Stock.**—Stock or shares which do not entitle the holder to any dividend upon them until the claims of prior shareholders, preference or ordinary, have been satisfied. Founders' shares are often of this kind. By the Regulations of Railways Acts railway companies have special powers granted to them, under certain conditions, for converting their ordinary stock into two classes—preferred ordinary or deferred ordinary.

**Accepting Stock.**—The act of signing the transfer book by the buyer of inscribed stock.

**Account (the).**—In each month there are two accounts · the period varies from thirteen to twenty-one days. The majority, however, are of a period of fourteen days. These are fixed by the committee. Each settlement covers four days · (1) the Contango Day, (2) the Ticket Day, (3) the Intermediate Day, and (4) the Account Day, Pay Day, or Settling Day as it is variously called.

**Account Day.**—Also called Pay Day or Settling Day. On this day, the actual delivery of securities commences at 10 o'clock, and the payment by the purchaser also takes place. Differences are also paid and received.

**Ad Valorem.**—An *ad valorem* stamp duty is a duty payable in respect of certain documents, and varies with the value of the subject matter dealt with by the document. The duty is charged by the Inland Revenue on all deeds conveying property, contracts, etc.

**Allotment.**—The act of allotting or distributing stock, shares, debenture stock, or bonds in a joint-stock company in response to applications for the same or in pursuance of contracts already entered into with regard to them. A Letter of Allotment conveys the information as to the amount of stock or shares allotted, and as to the sum payable by the applicant on allotment. When a new issue is made, the capital is usually payable in instalments—the deposit or application money and calls at intervals—to all of which the applicant is bound to subscribe. The dates on which the payments are to be made are prescribed in the prospectus of the loan.

or company where a prospectus has been issued By the Companies Act, 1929 (Sect 39), certain restrictions have been imposed as to allotments—

(1) No allotment may be made of any share capital of a company offered to the public for subscription unless the amount stated in the prospectus as the minimum amount which, in the opinion of the directors, must be raised by the issue of share capital in order to provide for the matters specified in paragraph 5 in Part 1 of the Fourth Schedule to the Act has been subscribed, and the sum payable on application for the amount so stated has been paid to and received by the Company

(2) The amount so stated in the prospectus is to be reckoned exclusively of any amount payable otherwise than in cash, and is in the Act referred to as the “minimum subscription ”

(3) The amount payable on application on each share must not be less than 5 per cent of the nominal value of the share

(4) If the foregoing conditions have not been complied with on the expiration of forty days after the first issue of the Prospectus, all money received from applicants for shares must be forthwith repaid to them without interest, and, if repayment is not made within forty-eight days after the issue of the Prospectus, the directors of the company will be jointly and severally liable to repay that money with interest at 5 per cent per annum from the expiration of the forty-eighth day. A director will not, however, be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of section 39 is void.

(6) The above (except paragraph (3) ) does not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription

Section 40 of the Companies Act, 1929, also provides that a company having a share capital which does not issue a prospectus on or with reference to its formation, or which has issued such a prospectus but has not proceeded to allot any of the shares offered to the public for subscription, may not allot any of its shares or debentures unless at least three days before the first allotment of either shares or debentures there has been delivered to the Registrar of Companies for registration a statement in lieu of prospectus,

signed by every person who is named therein as a director or a proposed director of the company or by his agent authorized in writing, in the form and containing the particulars set out in the Fifth Schedule. The section does not apply to a private company. If a company acts in contravention of this section, the company and every director who knowingly authorizes or permits the contravention is liable to a fine not exceeding £100.

The matters specified in paragraph 5 in Part 1 of the Fourth Schedule to the Companies Act, in respect of which the minimum subscription has to be raised, are as follows—

(a) The purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue,

(b) Any preliminary expenses payable by the company, and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any shares in the company,

(c) The repayment of any moneys borrowed by the company in respect of any of the foregoing matters,

(d) Working capital

An application for allotment is an offer by contract and may therefore be withdrawn at any time before the allotment is made and communicated to the applicant. The posting of the Letter of Allotment is an acceptance of the offer to take shares, and a withdrawal of an application which arrives after the posting of the Letter of Allotment, even though posted and sent before the posting of the letter, is too late.

The posting of the Letter of Allotment binds the applicant, and it is no answer if the applicant repudiates the contract that he never received the Letter of Allotment if in fact the letter was posted.

The Letter of Allotment will inform the applicant of the number of shares allotted to him. Where the nominal amount of the allotment is less than £5 a stamp duty of one penny is imposed, for greater amounts the duty is sixpence.

By Section 41—

“(1) An allotment made by a Company to an applicant in contravention of the provisions of the two last foregoing Sections [sections 39 and 40] shall be voidable at the instance of the applicant within

one month after the holding of the Statutory Meeting of the Company and not later, or, in any case where the Company is not required to hold a Statutory Meeting, or where the allotment is made after the holding of the Statutory Meeting, within one month after the date of the allotment, and not later, and shall be so voidable notwithstanding that the Company is in course of being wound up ”

“(2) If any director of a Company knowingly contravenes or permits or authorizes the contravention of, any of the provisions of the said sections with respect to allotment, he shall be liable to compensate the Company and the Allottee respectively for any loss, damages, or costs which the Company or the Allottee may have sustained or incurred thereby

“Provided that proceedings to recover any such loss, damages, or costs, shall not be commenced after the expiration of two years from the date of the allotment.”

By Section 42—

“(1) Whenever a Company limited by shares or a Company limited by guarantee and having a share capital makes any allotment of its shares, the Company shall within one month thereafter deliver to the Registrar of Companies for registration—

“(a) A return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses, and descriptions of the allottees, and the amount, if any, paid or due and payable on each share, and

“(b) In the case of shares allotted as fully or partly paid-up otherwise than in cash, a contract in writing constituting the title of the allottee to the allotment together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

“(2) Where such a contract as above mentioned is not reduced to writing the Company shall within one month after the allotment deliver to the Registrar of Companies for registration the prescribed particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing, and those particulars shall be deemed to be an instrument within

the meaning of the Stamp Act, 1891, and the registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under Section 12 of that Act

“(3) If default is made in complying with this section, every director, manager, secretary, or other officer of the Company who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds for every day during which the default continues.

“Provided that in case of default in delivering to the Registrar of Companies within one month after the allotment any document required to be filed by this Section, the Company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to deliver the document was accidental or due to inadvertence, or that it is just and equitable to grant relief, may make an order extending the time for the delivery of the document for such period as the Court may think proper.”

Section 94 (4) provides that any contract made by a Company before the date at which it is entitled to commence business shall be *provisional* only and shall not be binding on the Company until that date, and that on that date it shall become binding. This means that the contracts which are made before the date at which a Company is entitled to commence business are to be treated as if they contained a provision that they shall not be binding on the Company unless and until the Company becomes entitled to carry on business. If a Company never becomes entitled to carry on business the contracts which it has entered into never become binding. (*Clinton's Claim*, [1908] 2 Ch 515)

**Allottee.**—The person to whom shares in some public company are allotted by a formal Letter of Allotment.

**Amortization.**—Signifies the redemption of bonds and shares by means of annual drawings from a sinking fund, or the complete extinguishment of a loan by a single payment out of some special fund set aside for that purpose. Usually the interest on such bonds withdrawn is added to the sinking fund, thereby increasing the next amount amortized. The repayment occasionally takes place by drawings at par or sometimes by purchase in the open market. Usually amortization takes place once or twice a year.

**Application Form.**—The form on which application is made for

shares in a public company or loans. A receipt attached to it is signed by the banker to whom the application form is sent, and it is returned to the applicant as evidence that the application money has been paid. Later on the other receipts and the allotment letter are exchanged for Bonds or Share Certificates.

**Application Money.**—The money sent on application made for shares in a company or a loan.

**Arbitrage.**—A term applied on the English Stock Exchange and the French Bourse to the calculation of the relative simultaneous values of any particular stock on the market, in terms of the quotations on one or more other markets, and to the business formed on such calculations. In the strict sense arbitrage may be defined as a traffic consisting of the purchase or sale on one Stock Exchange, and simultaneous or approximately simultaneous resale or re-purchase on another Stock Exchange of the same amount in the same stocks or shares. Foreign Government Bonds, American shares, and certain South African mining shares are some of the subjects of arbitrage dealings. The rate of exchange becomes in such dealings the arbiter between these respective centres. Thus, a London arbitrage dealer finds a stock dealt in on the Paris Bourse lower in the London market than in Paris. He accordingly buys in the London market, and sells them through the Paris dealer, who divides the profits with the London arbitrage dealer in accordance with arrangements that may be made between them.

Notification to the Committee must be made by any member or firm who wishes to act as an Arbitrage dealer.

**Authorized Clerks.**—Clerks who are authorized, according to the rules, by the Stock Exchange Committee to transact business on behalf of their principals on the Exchange.

**Averaging**—Term used on the Stock Exchange to denote the operation of buying or selling stock, to reduce the average loss upon an original bargain when the stock has moved against the operator. Let us presume that a client has purchased £1,000 stock at 90 and that the price of the stock has fallen to 80. He may then purchase a further £1,000 stock at this lower price, which would mean that he becomes the holder of £2,000 stock at an average price of 85. The effect of this would be that should the price recover to 85 he will be able to sell his stock without loss, whereas had he not made the second purchase he would still be losing five points

on his first purchase. In these examples no allowance has been made for such items as commission, contract stamp, stamp duty, and registration fee or contango rates. The amount of stock purchased at the lower figure need not necessarily be the same as the first purchase, but it will be seen that should the amount of the second purchase be greater or less than the original so the average price would be correspondingly lower or higher.

**B Stock or Preferred Stock.**—That portion of the company's ordinary stock which ranks first for a fixed dividend before the A or deferred stock benefits.

**Backwardation.**—Also termed Back. In the ordinary course of contango, or carry-over business, when the positions of bulls and bears are more or less even, a rate is received by a bear as interest on the money which, in effect, he lends to the bull against the stock. Occasions arise, however, when there is an excess of bears over bulls, in which cases it is difficult for the bear to arrange a contango. If he does succeed in arranging to continue his position, instead of receiving interest as previously mentioned, he will most likely have to pay a rate to the bull for the loan of the stock. This rate is called a backwardation—"back" for short. It is in a sense the penalty that a bull clique is able to impose upon the bear when sales in excess of the stock on the market have been made.

**Balance Certificate.**—It sometimes happens that a seller holds a certificate of more shares or stock than he has sold. In this case the certificate for the whole lot is lodged with the company, who will allocate the amount sold to the new holder and issue a balance certificate for the remainder in the name of the original holder.

**Banging a Market.**—Openly offering securities at decreasing prices with a view to lowering the prices.

**Bargain.**—As between members of the Stock Exchange, a contract.

**Bear.**—A term applied on the Stock Exchange to a person who sells stock or shares which he does not hold in the hope that there will be a fall in the price which will enable him to repurchase at a profit. It has been stated, and rightly too, that to be a successful bear one must be a rich man, for, although eventually the price may fall, it may not do so for some considerable time. In the meantime there is no limit to which the price of the stock or shares may be raised irrespective of the intrinsic value, and as differences have



to be met each settling day it will be seen that, although the transaction may ultimately yield a handsome profit, it may be necessary to find huge sums to settle differences before the profit can be realized

**Bear Account.**—This expression is used when there is an excess of bear sales over bull purchases

**Bear Raid.**—An attack made on a market by “bears” which is successful in quickly depreciating values

**Bid.**—An expression used to denote the price at which stock or shares can be sold The Stock Exchange method of recording this is by adding a plus sign after the price, thus, if the price of a certain share was 15s bid it would be written 15s +

**Bidding.**—When a jobber is desirous of procuring stock or shares instead of seeking out another jobber, he makes an open or public bid in the House for the purpose of obtaining the stock or shares which he requires. As the bidding is the offer to purchase it is the converse of offering, which is an offer to sell.

**Bond.**—The term is applied to certain securities issued by foreign Governments and commercial corporations. These are either of a like nature to our own Government securities, or, in the case of commercial bonds, to what in England are known as debentures Bonds bear consecutive numbers for the purpose of record and identification. They also have coupons attached due at stated dates. On a coupon becoming due the holder of the bond detaches it and presents it to the agents of the loan for payment. These bonds, both by American and English law, are analogous to promissory notes and negotiable in the same way. A *bona fide* holder for value is unaffected by want of title in the vendor, and is presumed to act in good faith—gross negligence would not prove *mala fides*. Trust bonds are issued to bearer; some, however, may be registered in the name of the holder, leaving the coupons to bearer. The rules which deal with American, British and Colonial Treasury and Colonial Bonds will be found elsewhere in the Rules and Regulations of the Stock Exchange

**Bonus.**—A special allowance, gift, or premium to the shareholders of a company over and above the ordinary dividend. In this form the extra dividend, which a bonus substantially is, does not constitute a precedent.

**Books Closing**—At certain dates, which are generally made

known beforehand, the books of most companies are closed to the registration of transfers. This is the common proceeding before dividends are paid, so that it frequently happens that a buyer of stock or shares cannot be registered in time to get his name on the books as a shareholder before the dividend is paid. In such cases the broker must claim it from the seller of such stock or shares, or if delivery of such stock or shares is not made before the closing of the books he is entitled to deduct the dividend from the payment against them.

**Boom.**—A period of extraordinary activity with a rising tendency in a market or in markets.

**Borrow.**—A term applied in connection with the carry-over arrangement of a "bear." Having sold stock or shares which he does not possess, it is necessary to arrange a contango to square his position. In effect he borrows the shares for the current account, but has to return them at the next settlement.

**Brokerage.**—The remuneration or reward paid to a broker for carrying out the purchase or sale of stocks or shares. It almost invariably takes the form of a commission per share or percentage of the price of the subject-matter of the contract. In the case of shares, a graduated scale is charged in accordance with the price. With stock it is a percentage either on the amount of stock dealt in or on the amount of money realized or invested. The minimum scale of commissions will be found set out in detail in Appendix No. 39.

**Brokers' Contract Notes.**—The documents signed by brokers and sent to their principals. These bear contract stamps on the following scale—

Where the value of the Stock or marketable security

	Is under £5				Nil	
	Is £5	and does not exceed			£100	6d.
Exceeds	£100	"	"	"	£500	1/-
"	£500	"	"	"	£1,000	2/-
"	£1,000	"	"	"	£1,500	3/-
"	£1,500	"	"	"	£2,500	4/-
"	£2,500	"	"	"	£5,000	6/-
"	£5,000	"	"	"	£7,500	8/-
"	£7,500	"	"	"	£10,000	10/-

Exceeds £10,000 and does not exceed £12,500	12/-
„ £12,500 „ „ „ „ £15,000	14/-
„ £15,000 „ „ „ „ £17,500	16/-
„ £17,500 „ „ „ „ £20,000	18/-
„ £20,000	£1

**Bucket Shop.**—A slang term applied to the offices of outside brokers. The business carried on by some outside brokers is entirely of a speculative nature and, in the past, many have turned out to be absolute swindles. It must not be presumed, however, that all outside stockbroking firms are of this nature, as quite a number carry on a perfectly legitimate business in stocks and shares, but they are not regulated in any way by the Rules and Regulations of the Stock Exchange. Members of the Stock Exchange are not allowed to advertise for business purposes or to issue Circulars or Business Communications to persons other than their own principals.

Persons who advertise as Brokers or Share Dealers are *Not* Members of the Stock Exchange or in any way under the control of the Committee.

Members issuing Contract Notes are required to use such a form as will provide that the words “Member of the Stock Exchange, London” shall immediately follow the signature.

A List of Members of the Stock Exchange who are Stock and Share Brokers may be seen at the Bank of England Stock Transfer Offices, Finsbury Circus, or obtained on application to the Secretary to the Committee of the Stock Exchange, Committee Room, the Stock Exchange, London, E.C.2.

**Bull.**—A term applied on the Stock Exchange to a person who buys stock or shares possibly with no intention or even means of paying for them, in the hope that there will be a rise in the price which will enable him to sell at a profit. Actually the position is the reverse of a “bear.” A stale bull is one who has held on for some time without an opportunity of realizing a profit.

**Bull Account.**—Is an account where there is an excess of speculative purchases open over speculative sales.

**Buying-in.**—By the Stock Exchange rules (see Appendix) a seller of stocks, shares, or bonds is allowed a certain time within which to complete delivery. The time varies according to the nature of the security. If he fails to make delivery within the stipulated

time the buyer may take steps to obtain his security by the process known as buying-in. There are certain officials of the Stock Exchange known as the officials of the Buying-in and Selling-out Department, who are appointed by the Committee for General Purposes. On the failure of the seller to complete delivery by the due date and on receiving instructions from his client, a broker will give an order to the Buying-in and Selling-out Department to buy-in the security. The department must then attempt to execute this order publicly in the Stock Exchange. Should the order be executed the person from whom the department purchases must deliver the security to the original buyer by one o'clock on the following day, otherwise it may be bought-in again. So far as the original seller is concerned, his sale is cancelled by the purchase made by the Buying-in Department, and he has to lose the amount of the difference between the price at which he sold and the price at which the department bought. Sometimes the Buying-in Department is not able to execute the order, in which case the seller has to pay a commission to the department. The position of his transaction remains unaltered, as he is still due to deliver the security to the original buyer, but the buyer may continue to give instructions for the security to be bought-in on every succeeding day that it remains undelivered. Securities may not be bought-in while they are known to be out of the control of the seller for the payment of calls or the receipt of interest, dividends, or bonus. The committee has power to suspend the buying-in of securities when circumstances appear to them to make such suspension desirable in the general interest. The liability of intermediaries shall continue during such suspension unless otherwise determined by the committee.

**Call.**—This expression may be used in three senses. Thus, it may represent the demand made by directors to the shareholders of a company to pay up the amount of their contributions to the company, the contribution being a portion of the unpaid amount of new shares. It may be used to express the demand made by a liquidator of a company on the shareholders or contributories in a winding-up. It is also a form of option in use on the Stock Exchange. See **OPTION**.

**Call Money.**—Money lent by brokers and others to bill-brokers at an agreed rate of interest for repayment at a moment's notice.

**Call of More.**—The right to call at a certain date an equal amount of stock to that which has just been bought and at the same price

**Carrying Over.**—A term applied to the arrangement by which the parties to a Stock Exchange bargain continue the transaction into the next account. For instance, a bull who has purchased shares but has not been able to sell at a profit during the account, may not wish, or may not be in a position, to pay for the shares. He will, therefore, need to find someone who will lend him the money until the following settlement. Likewise a bear who has been unable to secure a profit during the account, not having the shares to deliver, will need to find someone to lend him the shares. In effect, the bull having bought shares which he does not want and the bear having sold shares which he does not possess, an arrangement is come to between them whereby their respective positions are renewed for the next settlement. An official price is fixed at which the transactions are closed for the current account and reopened for the new account. The process of carrying over involves such charges as *contango* and *backwardation*.

**Certification.**—An endorsement made on a deed of transfer by the secretary or registrar of a company to the effect that a certificate to cover the stock or shares being transferred has been lodged either by the transferor or his agent. Certification becomes necessary when the security sold is represented by one certificate but has to be delivered to more than one buyer. To save time, particularly in the case of companies whose transfer office is not situated within easy reach of the Stock Exchange, certification of transfers of stock or shares in certain companies is undertaken by the Share and Loan Department of the Stock Exchange.

**Checking, or Checking Bargains.**—Every morning the Settling Room, or red button, clerks meet in the Settling Room of the Stock Exchange for the purpose of confirming the transactions of the previous day. To save confusion the clerks of jobbers are seated. The method of checking is for the broker's clerk to seek out the clerk to the jobber with whom a particular bargain was done and call over the transaction to him, e.g. "I sell you 100 Chartered at 20s." The jobber's clerk would reply, "I buy 100 Chartered at 20s.," and the transaction would then be checked. The benefit of checking is that any dispute or disagreement in a bargain can be put right immediately instead of otherwise waiting until discovered

at the settlement, when, owing to the time that had elapsed, the conditions of the transaction would be difficult to recall by the principals concerned.

**Clearing House.**—An institution somewhat similar to that instituted by bankers and railways, its object being to obviate the necessity for multitudinous deliveries of stocks and shares, and passing of tickets. Since all these deliveries and payments are to the members of a limited circle, the business being confined to transactions between members of the Stock Exchange, the object is effected by taking an account of the transactions, striking a balance, and making this the subject of delivery or payment as the case may be. The Clearing House does not trouble itself with stocks or money. its dealings are with balance sheets and tickets. By means of the Clearing House the number of hands through which stock passes on pay day and tickets on ticket day is reduced to a minimum. Only a proportionately small number of stocks and shares are cleared.

**Close to Close, Close either Side, Close Over and Close Under.**—A price made by jobbers when dealing, signifying  $3\frac{3}{4}$ d or  $\frac{1}{4}$  either side of a price. For instance,  $\frac{1}{16}$  to  $\frac{1}{8}$  close to close means 1s  $6\frac{3}{4}$ d. to 2s  $2\frac{1}{4}$ d, at which prices the jobber would be prepared to buy or sell. Close either side of 15s. would be 14s.  $8\frac{1}{4}$ d. to 15s.  $3\frac{3}{4}$ d. Close over 15s. would be 15s.  $3\frac{3}{4}$ d and close under 15s. would be 14s.  $8\frac{1}{4}$ d.

**Coming Out.**—A term used in connection with the sale of stocks or shares for the time when the issue of certificates is made.

**Commission.** The charge made by a Broker for transacting his principal's business

By Section 43 (1) of the Companies Act, 1929, a Company has power "to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the Company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the Company if—

"(a) the payment of the commission is authorized by the Articles, and

"(b) the commission paid or agreed to be paid does not exceed ten per cent of the price at which the shares are issued or the amount or rate authorized by the Articles, whichever is the less, and

“(c) the amount or rate per cent of the commission paid or agreed to be paid is—

“(i) in the case of shares offered to the public for subscription disclosed in the prospectus, or

“(ii) in the case of shares not offered to the public for subscription disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and delivered before the payment of the commission to the Registrar of Companies for registration, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice, and

“(d) the number of shares which persons have agreed for a commission to subscribe absolutely is disclosed in manner aforesaid.

“(2) Save as aforesaid, no Company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the Company, or procuring or agreeing to procure subscriptions, whether absolute or conditional for any shares in the Company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the Company or to the contract price of any work to be executed for the Company, or the money be paid out of the nominal purchase money or contract price or otherwise.

“(3) Nothing in this Section shall affect the power of any Company to pay such brokerage as it has heretofore been lawful for a company to pay.

“(4) A vendor to, promoter of, or other person who receives payment in money or shares from, a Company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the Company, would have been legal under this Section ”

By Section 44 (1), “where a Company has paid any sums by way of commission in respect of any shares or debentures or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed, or so much thereof as has not been written

off, shall be stated in every balance sheet of the Company until the whole amount thereof has been written off "

**Committee.**—The Stock Exchange Committee for general purposes.

**Consideration, or Consideration Money** is the amount named in a transfer of registered stock or shares as being paid by the buyer to the seller. The amount often differs from that which is in fact received by the seller owing to subsequent sales. The Stamp Act requires in such cases that the consideration money paid by the sub-purchaser shall be the one inserted in the deed as regulating the *ad valorem* stamp

**Consolidated Annuities.**—A term applied to the consolidation or amalgamation of various annuities into one common debt. These are the  $2\frac{1}{2}\%$  Annuities.

**Consolidation.**—Combining several issues of stocks or shares and changing them into one uniform security.

**Consols.**—A combination of the term consolidated funds and consolidated stock. In addition to the original "Consols," i.e.  $2\frac{1}{2}\%$  Consolidated Stock, there is now a  $4\%$  Consolidated Stock which was issued in October, 1929.

**Contango.**—The charge made for carrying over or continuing a bargain from one fortnightly account to another. The seller of the stock, or whomsoever the contango is arranged with, charges the buyer of the stock a rate of interest for the use of the money employed in holding over the stock into the next settlement. The interest or charge varies with the rate of the money market, or with the market conditions in that stock. Thus, to give an example, if A desires to carry over a stock through a broker, the broker will apply to a dealer who has the money to lend or may possibly even require the stock. The transaction takes the form of the purchase of the stock by the dealer, or if the dealer was the original vendor, the repurchase of the stock. The price paid is the making-up price. The stock is then repurchased from the dealer at the same price with the addition of the charge or contango. For the purposes of rough calculation 1d in the £ for a 14 day a/c is  $10\%$  per annum.

**Continuation.**—Also known as carrying over. See CARRYING OVER

**Corner.**—This word signifies the operation of speculators or a syndicate of speculators by means of which they obtain the whole or the greater part of floating stock. The speculators in a company



or syndicate are then in a position to dominate the market in the shares. Those who have sold the shares which they do not possess, that is, the bears, are then forced to buy back at the price that the speculators or bulls allow them. The bears are then said to be cornered. If the bulls keep a tight hold on the market and raise the prices so that the bears are obliged to pay heavily for securing them they are then said to be squeezing the bears.

**Coupon.**—To enable holders of bearer bonds and share warrants to bearer to obtain payment of interest and dividends, coupons are attached to the bonds or warrants. These must be detached and lodged with the paying agent a few days before payment is due.

**Cumulative Preference Stock and Shares.**—Where the guaranteed dividend of securities cannot be paid in any one year or series of years the dividend accumulates till it can be paid. Such accumulated dividend is entitled to payment before any dividend is paid either on the preference or on the ordinary shares in any succeeding year, the revenue for any year being first applied to payment of dividend for the current year and then to payment of the arrears, commencing with those of the nearest years.

**Cum Dividend.**—This is a term used to signify the fact that a price quoted includes a dividend that may have just been declared or that may be about to be declared. Under the Stock Exchange rules all transactions carry the dividend until such time as they are officially quoted ex-dividend in accordance with Rule 111. (See APPENDIX)

**Cum Drawing.**—This term is used when bonds are dealt in at or near the time when a drawing takes place. It means that the securities are sold with any benefits that may arise from the drawing, and if the bonds are drawn for repayment at par, or at premium, the buyer receives the profit.

**Cum New.**—**Cum Rights.**—When the buyer has the right to claim any new shares or new stock which are about to be issued in respect of present holdings, he is said to deal cum new. New shares or new stock are often issued by companies increasing their capital. The offer is not infrequently made to the existing shareholders in the first instance. As such shares sometimes command a premium in the open market, shareholders often sell their right to the allotment by signing a letter of renunciation in the buyer's favour, by which means the former would

secure the premium on the new shares without incurring any liability with respect to them. The original shares, if dealt in and sold with the right to claim the allotment of the new shares, would be sold cum new or cum rights.

**Dealer.**—The term is applied to a jobber.

**Debenture Bond.**—A security given by a joint-stock company for money raised in addition to the capital subscribed by the shareholders. In form it is a charge or mortgage issued by a company bearing a fixed rate of interest and either repayable within a fixed term of years or irredeemable during the existence of the company. Debentures may be divided into two classes: in the first class may be put those debentures which give a holder a security by way of mortgage upon the property or assets of a corporation. In the second class may be put those which give no such security. The first may be defined as secured, the second as unsecured debentures.

Debentures constitute a floating charge, that is, the assets of the corporation are charged so long as they remain in the company's possession, but the existence of a debenture does not prevent the alienation of the assets—so long as the charge remains a floating charge. New assets may take the place of old assets which are alienated, and these become the subject of the charge. On the debenture becoming payable the debenture-holders, if not paid off, are entitled to seize all the assets of the corporation. Debentures may also be further classified as: (1) Debentures payable to bearer; (2) Debentures payable to a registered holder; (3) Debentures payable to a registered holder but with interest coupons payable to bearer; (4) Debentures payable to bearer, which can be placed on a register and which can at any time be withdrawn from it. The conditions of the debenture are endorsed on it—very often on the back. Registered debentures are expressed to be paid to the registered owner; where a change of ownership takes place they must be transferred as shares or stocks, but usually on a special form; the instrument of transfer also requires to be registered. This entails the payment of the transfer stamp duty. The title to debentures to bearer passes by delivery, although on issue they require stamping at the rate of £2 per cent on the amount secured by them. The stamp duty on bearer bonds differs in accordance with the date of the bond and the Stamp Acts in operation at various times.

The following is a special form for transferring a Debenture Bond—

**I**

in consideration of the Sum of

paid to me by

**Do** hereby transfer to the said

certain

Executors, Administrators, and Assigns,  
number

made by

to

bearing date the \_\_\_\_\_ day of \_\_\_\_\_  
for securing the sum of \_\_\_\_\_  
and interest, and all my right, estate, and interest, in and to the money  
thereby secured on the property and securities thereby assigned

**In Witness** whereof I have hereunto set my Hand and Seal  
this \_\_\_\_\_ day of \_\_\_\_\_ in the Year of our Lord,  
One Thousand Nine Hundred and \_\_\_\_\_

Signed, sealed, and delivered, by the above-named

\_\_\_\_\_ in the presence of

\*SIGNATURE } \_\_\_\_\_  
OF WITNESS }

Address \_\_\_\_\_

Occupation \_\_\_\_\_

Signed, sealed, and delivered, by the above-named

\_\_\_\_\_ in the presence of

\*SIGNATURE } \_\_\_\_\_  
OF WITNESS }

Address \_\_\_\_\_

Occupation \_\_\_\_\_

Seal

Seal.

**NOTE**—The Consideration money set forth in a transfer may differ from that which the first Seller will receive, owing to sub-sales by the original Buyer, the Stamp Act requires that in such cases the Consideration money paid by the Sub-purchaser shall be the one inserted in the Deed, as regulating the *ad valorem* Duty, the following is the Clause in question

"Where a person, having contracted for the purchase of any Property, but not having obtained a Conveyance thereof, contracts to sell the same to any other Person, and the Property is, in consequence, conveyed immediately to the Sub-purchaser, the Conveyance is to be charged with *ad valorem* Duty in respect of the consideration owing from the Sub-purchaser" [54 & 55 Vict. cap. 39 (1891), Section 58, Sub-section 4]

#### Instructions for executing Transfers.

\* When a transfer is executed out of Great Britain it is recommended that the Signatures be attested by H M Consul or Vice-Consul, a Clergyman, Magistrate, Notary Public, or by some other Person holding a public position—as most Companies refuse to recognize Signatures not so attested. When a Witness is a Female, she must state whether she is a Spinster, Wife, or Widow; and if a Wife she must give her Husband's Name, Address, and Quality, Profession or Occupation. The Date must be inserted in Words and not in Figures

For the greater security of debenture-holders the property of the corporation is frequently conveyed by way of mortgage to trustees to hold in trust for the holders of debentures. This deed is called the covering or trust deed. Where such a deed exists the debentures should contain a condition incorporating its terms by reference.

Debentures must be entered in a company's register, but they do not require registration as bills of sale.

It has been decided that a good title is acquired by the holder of debentures to bearer, even against the rightful holders. In *Bechuanaland Exploration Company v. London Trading Bank, Limited*, [1898] 2 Q.B. 658, the secretary of the company, in fraud of the plaintiffs, took certain debentures from a safe and pledged them to the defendants. The defendants proved that it was the usage of the mercantile world and the Stock Exchange to treat debentures as negotiable instruments transferable by mere delivery. On this point they succeeded as against the plaintiffs, who claimed to recover from them the value of the debentures. In *Edelstein v. Schuler & Co.*, [1902] 2 K.B. 144, debenture bonds were stolen by one of the plaintiff's clerks, and handed by him to a Bradford broker, who sold them through defendant's stockbrokers, carrying on business on the London Stock Exchange, to jobbers either for cash or the account. When sold the bonds were handed over by the Bradford broker to the defendants, to be handed over to the jobbers. The proceeds were sent to the Bradford broker, who handed them to the clerk. The defendants acted with perfect *bona fides*. It was decided that the debenture bonds were negotiable instruments transferable by mere delivery. In the course of his judgment, Mr. Justice Bigham said: "In my opinion the time has passed when the negotiability of bearer bonds, whether Government bonds or trading bonds, foreign or English, can be called in question in our courts. The existence of the usage has been so often proved and its convenience is so obvious that it must be taken now to be part of the law; the very expression 'bearer bond' connotes the idea of negotiability, so that the moment such bonds are issued to the public they rank themselves amongst the class of negotiable securities. It would be a great misfortune if it were otherwise, for it is well known that such bonds are treated in all foreign markets as deliverable from hand to hand; the attribute not only enhances their value by making them easy of transfer, but it qualifies them to

serve as a kind of international currency, and it would be very odd and a great injury to our trade if these advantages were not accorded to them in this country."

**Debenture Stock.**—A security given by a joint-stock company for money raised in addition to the capital subscribed by the shareholders. In form it is a charge or mortgage issued by a company bearing a fixed rate of interest, and either repayable within a fixed term of years or irredeemable during the existence of the company. Like all other stock, debenture stock is negotiable either in odd amounts or multiples of £1 or £10, and in this respect may be seen the difference between this and debenture bonds, which are only as a rule transferable in their entirety. The objects being to secure identification, a holder of debenture stock is a creditor of a company, the security being the assets.

**Defaulter.**—A defaulter is a member of the Stock Exchange publicly declared to be unable to fulfil his engagements. A person declared a defaulter ceases to be a member. (See HAMMERED.)

**Differences.**—The cash balance that remains open between two firms when all the transactions between them, during the account, have been adjusted either by Clearing House items, contangoes or tickets, is known as a difference. These balances are struck and settled on settlement day. On the morning of the account day any unsettled bargain must be brought down and temporarily adjusted, for difference purposes, at the making-up price of the contango day.

**Discount.**—When the selling or market price is lower than the par price the stock is said to be at a discount. Thus, if a share on which £100 has been paid has a market value of £98 it is at 2 per cent discount.

**Either Side.**—An expression used to denote that the quotation is  $\frac{1}{32}$  (or  $7\frac{1}{2}d$ ) under to  $\frac{1}{32}$  over a given price. For instance, either side of £1 would be 19s.  $4\frac{1}{2}d$ , 20s.  $7\frac{1}{2}d$

**Equipment Bonds.**—An Equipment Bond is one issued to provide funds for new rolling stock, cars, locomotives, etc., and is secured on the Railroad's rolling stock. These bonds are short dated bonds and mature serially.

**Ex All.**—When the price of any stock or shares is quoted "ex all," it signifies that a purchase does not carry any right to dividend, bonus, return of capital or new stock or shares, such rights remaining with the seller.

**Ex Coupon.**—Without the interest coupon.

**Ex Dividend.**—When stock or shares are quoted ex dividend it means that the dividend just declared or due to be declared is not included in the price. Under the Stock Exchange rules securities are officially quoted ex dividend at stated times, and thereafter all transactions are made without the inclusion of the dividend. (See Rule 111 in the APPENDIX )

**Face Value.**—The value of a security as evidenced by the imprint upon its face.

**Floaters.**—Bearer securities accepted as security for loans.

**Founders' Shares.**—The shares granted to or subscribed for by the originator or originators of a joint-stock company. The shares are few in number, but in the event of the company being successful they may become of very considerable value. They usually rank to receive a large share in the profits of the business after the ordinary stock has received a stipulated dividend. The rights of holders of founders' shares are generally provided for in the Articles or Memorandum of Association. Such shares are not now common.

**Gilt-edged Securities.**—Securities which are considered to be absolutely safe and sound

**Give On.**—See TAKING IN STOCK

**Giver.**—Another term for a "Bull "

**Hammered.**—When a member cannot meet his engagements, one of the waiters of the Stock Exchange announces the failure, rapping three times on his box with a mallet. The member is then said to be hammered (See DEFAULTER )

**Identification.**—The seller of stock which is inscribed in the books of the Bank of England, the Crown Agents for the Colonies, or any other bank keeping a register of inscribed stocks must either attend personally to effect the transfer by signing the transfer book, or he must appoint some person as his attorney for the purpose. If he attends personally he must be accompanied by a recognized broker or his accredited representative, who must identify him as the person named in the account as the stockholder.

**Inscribed Stock.**—Stock for which the inscription in the books of the Bank of England, the Crown Agents for the Colonies, and certain other banks is the sole title.

**Interest Warrant.**—**Dividend Warrant.**—A form of cheque used for making payments of interest to the holders of registered securities.

**Interim Dividend.**—A dividend made pending the declaration of the annual dividend, which is sometimes called the final dividend. The interim dividend is usually made at the end of the first half-year.

**Investment Stocks.**—Stocks which are usually the subject of selection by the buyers as permanent investments.

**Investor.**—A purchaser of stock who intends to pay for it, as distinguished from a speculator.

**Joint Account.**—When a joint responsibility with another Stock Exchange firm is declared, this is known as a joint account or market partnership.

**Joint Stock Companies Acts.**—Means the Joint Stock Companies Act, 1856, the Joint Stock Companies Acts, 1856, 1857, the Joint Stock Banking Companies Act, 1857, and the Act to enable Joint Stock Banking Companies to be formed on the principle of limited liability, or any one or more of these Acts as the case may require, but does not include the Act passed in the eighth year of the reign of Her Majesty Queen Victoria, chapter one hundred and ten, intituled An Act for the Registration, Incorporation, and Regulation of Joint-stock Companies (Sect 380, Companies Act, 1929)

**Lend.**—This term is used in connection with the carry-over transaction of a "bull." Having purchased stock or shares for which he does not wish to pay, he makes an arrangement with a "bear" by which he lends the bear the stock or shares for the account.

**Letter of Regret.**—A notice by directors to a would-be subscriber for shares or stock in a company that they are unable to allot him any.

**Letter of Renunciation.**—A form, by signing which a shareholder, who is by reason of his holding entitled to additional or new shares, informs the directors that he does not intend to subscribe for them himself but nominates someone else.

**Limit.**—An order given to a broker by a client, or given by a broker to a jobber, to buy or sell at a definite price.

**Limited Market.**—Where there is a difficulty of doing business freely

**Making-up Price.**—A price fixed by the Clerk of the House for the settlement of contangoes and the adjustment of accounts generally. The price is fixed by taking the actual market price at eleven o'clock on the contango day.

**Margin.**—The margin on a Loan account is the difference between the amount of the Loan and the total value of the securities, which must be kept up by the borrower in event of any depreciation in value of the securities.

**Market.**—The dealers in different classes of securities congregate together in the Exchange, forming what is known as a market. Thus, there is the Consol, the Home Railway, Foreign, American, and the Mining and Miscellaneous Markets, subdivisions of these exist, such as the miscellaneous Mining, Kaffir, Rhodesian, West African, and West Australian Markets. Markets are spoken of as being dull, heavy, active, feverish, etc., according to the conditions prevailing.

**Middle, or Middle Price.**—If a stock is quoted at  $94\frac{3}{8} - \frac{5}{8}$  the middle would, of course, be  $94\frac{1}{2}$ . The term is used in respect of an enquiry by the broker to the jobber as to whether anything can be done at the middle price.

**Name Day.**—The second day of the settlement on the Stock Exchange. It is also called Ticket Day.

**Obligations.**—The name is often given to the bonds or shares of foreign railway companies. The French name for bonds.

**Offered.**—This term is used to denote the price at which stock or shares are offered or, in other words, at which they may be purchased. In Stock Exchange practice this fact is denoted by writing a minus sign after the price. The price of a share offered at 20s. would be written 20s. —.

**Official Assignees.**—Two members of the Stock Exchange who are annually appointed by the Committee to act as Official Assignee and Deputy Official Assignee respectively. They are designated as Official Assignees. It is their duty to obtain from a defaulter his original books of account and a statement of the sums owing to and by him, to attend meetings of creditors and to summon the defaulter before such meetings, to enter into a strict examination of every account, to investigate and report to the Committee forthwith any bargains found to have been effected at unfair prices; and to manage the estate in conformity with the Rules, Regulations, and Usages of the Stock Exchange. Each Official Assignee has to find security amounting to £1,000 from two or more members of the Stock Exchange, and in the event of any default or misappropriation by any Assignee of funds or property entrusted to



his care, or of any other act of dishonesty, each of his sureties shall pay, under direction of the Committee, such sum as he shall have guaranteed.

Once in every month the Official Assignees must bring before the Committee an account of the balances in their hands belonging to defaulters' estates, and the Committee must order such balances as they think fit to be paid over to the account of the Trustees of the Stock Exchange Benevolent Fund, subject to recall by the Committee for distribution amongst creditors or for payments by or to the Official Assignees which have been authorized by the Committee.

A statement of all sums so paid over, and of the amount remaining in the hands of the Trustees of the Stock Exchange Benevolent Fund on the 31st of December in every year, must be furnished by the Official Assignees and deposited in the Committee Room for the inspection of the members of the Stock Exchange.

On the first of February in each year the Official Assignees must lay before the Committee the names of the defaulters who have been re-admitted as members or clerks but have not paid 20s. in the £, with particulars as to the date of re-admission, the original liabilities, the dividends paid, and the date and amount of the last payment. On the 1st of March in each year the Official Assignees must lay before the Committee a statement of all dividends paid during the last year on each defaulter's estates.

**Official List.**—This is a list published daily under the authority of the Committee of the Stock Exchange giving the quotation at 3.30 p.m. and a record of business done in certain stocks. Another list is issued, known as the Supplementary List of Securities not Officially Quoted. For fuller details of both lists, see Chapter VI, "New Issues and Official Quotations."

**Official Receiver.**—For the purposes of the Companies Act, so far as it relates to the winding-up of Companies by the Court in England, the term "Official Receiver" means the Official Receiver, if any, attached to the Court for bankruptcy purposes, or if there is more than one such Official Receiver, then such one of them as the Board of Trade may appoint, or if there is no such Official Receiver, then an officer appointed for the purpose by the Board of Trade (Section 179). This officer, for the purpose of his duties under this Act, is styled the Official Receiver. As to the duties and powers of the Official Receiver, see Sections 180 to 183 of the Companies Act,

1929. As to Liquidators for the purpose of conducting the winding-up of a Company and performing such duties in reference thereto as the Court may impose, the Court may appoint a Liquidator or Liquidators.

As to the appointment, remuneration, and title of Liquidator, the custody of a Company's property in a winding-up under an order of the Court, the powers of a Liquidator, the meetings of creditors and contributories in an English winding-up, the information that a Liquidator has to give to an Official Receiver, and duties connected with this and control of his powers in England, see Sections 183 to 197, inclusive, of the Companies Act, 1929

**Option Certificates.**—Certificates issued by a Company giving their holders an option to take up shares at a given price at a certain date or dates. These are transferred in the same manner as shares.

**Options.**—A method of speculating with the advantage of being able to limit one's loss if any. Options are of three classes THE PUT, THE CALL, and THE PUT AND CALL, or double option. A certain price is fixed for the option, such price being regulated by the existing price of the stock or share, the nature of the market, and the period for which the option is required. No option may be done for a period longer than the seventh ensuing account day. There is usually an allowance to be made for interest, or contango, on the stock or share until the account at which the option can be exercised. The person paying the option money is known as the giver, and the person receiving is known as the taker. Let us take an example of each class.

1. THE PUT —A client, presumably, considers that the price of a certain share at, say,  $4\frac{1}{2}$  is too high and that within a given period, say three months, it will be considerably lower. He inquires the price of the option, and finds that a single option for three months costs 5s. per share. The allowance to be made for contango for three months on a share at  $4\frac{1}{2}$  would work out at approximately 1s 3d. per share, making the price at which the option can be exercised £4 11s 3d. This being satisfactory he deals, i.e. he gives 5s. per share for the put of 400 shares at £4 11s. 3d. for three months. This means that for the payment of 5s. per share he has the right to put upon the taker 400 shares at £4 11s. 3d. per share or, in other words, the right to sell to the taker 400 shares at £4 11s. 3d. per

share, at the expiry of the three months. Should the price of the shares have fallen to anything below £4 6s. 3d. per share he will make a profit, but at anything between £4 6s. 3d. and £4 11s. 3d. he can, by exercising the option, save just so much of his option money. If the price should go above £4 11s. 3d. per share, he would not exercise his option, and would lose the amount of his option money, viz. £100

2 **THE CALL**.—This is the reverse of the put. If a person thinks that the price of a share will go higher within a given time, he gives money for the call of the shares. Taking the same details as stated for the "put," he would have the right at the end of the three months, in consideration of the payment of 5s. per share, to call from the taker 400 shares at £4 11s. 3d. per share. In other words, he has the right to buy from the taker 400 shares at £4 11s. 3d. per share.

3 **THE PUT AND CALL**.—This is a combination of the two, and costs twice as much as either a put or a call. On the basis of the previous example, the option money for the put and call would be 10s. per share. This means that in consideration of the payment of 10s. per share, the giver of the option money has the right at the end of the three months to either sell or buy 400 shares at £4 11s. 3d. per share. All options exercised carry the right to all dividend rights, etc., declared since the purchase of the option. In the above examples the prices stated have simply been used for illustration purposes, and must not be taken as any indication of the conditions ruling in the market for options on shares of a similar price.

**Over.**—A term used by jobbers to express  $\frac{1}{32}$ , such as "over the figure,"  $1\frac{1}{32}$ ,  $2\frac{1}{32}$ , etc., whatever the figure may be. " $\frac{3}{4}$  under to over" would mean 14s.  $4\frac{1}{2}$ d., 15s.  $7\frac{1}{2}$ d. (" $\frac{3}{4}$ " means 15s.)

**Paid-up Shares.**—Where there is no further liability in respect of subscriptions and shares they are called paid-up shares.

**Pay Day.**—See ACCOUNT DAY.

**Power of Attorney.**—A document executed by a person or persons authorizing another to act on his or their behalf either for one specific object or in a general manner. Powers of Attorney are frequently used in connection with the sale or transfer of inscribed stock, in order to transfer which it is necessary for the stock register kept by the agent to be signed. In order to save trouble and expense in attending at the agent's office, stock-holders usually

grant a Power of Attorney to their broker, who is thus enabled to sign the register and complete the transfer on their behalf. Such a Power of Attorney is, of course, issued for the one specific object, and becomes useless after that object has been achieved. Powers of Attorney for the sale or transfer of British Government and Guaranteed Securities and India Stocks are issued by the Bank of England free, for others a fee of 11s 6d is charged, 10s of which is stamp duty. Other inscribed stock agents charge only the amount of the stamp duty, viz 10s.

**Plunger.**—A reckless speculator.

**Preference Bonds, Preference Shares, Preference Stock.**—Securities which enjoy special rights over the revenue or assets of a nation or company.

**Premium.**—The difference in value above the original or par price of a stock. Thus, if a share is of the original value of £100, and the market price is above £100, the share is at a premium. Premium is also used in the sense of (1) a bounty, (2) a payment for a loan in lieu of or in addition to interest.

**Protected Bear.**—Sometimes a person who has sold stock or shares which he actually owns, will, instead of delivering them at the settlement, carry them over as if a bear. By this means he may be able to buy back his shares at some future time at a lower price and without the cost of stamp duty and registration fee. In this case he is known as a protected bear, because if called upon to do so he has the security to deliver.

**Put.**—See **OPTIONS**.

**Put and Call.**—See **OPTIONS**.

**Quoted.**—Stocks mentioned in the official list are said to be quoted.

**Rates.**—Abbreviated from rates of continuation, prices of contango and backwardation.

**Registered Bonds.**—Bonds registered in owner's name.

**Registered Shares and Stock.**—Shares and stock registered in the holder's name in the books of the company.

**Registration Fee.**—A fee charged by public companies for completing the transfer of stock according to the terms of the deed of transfer. The fee is usually 2s. 6d. per deed, but some mining companies charge 2s. 6d. per 100 shares.

**Remisier.**—A term used on the Stock Exchange which is applied to a certain class of men employed by brokers in their business.

who may be resident outside Great Britain, Northern Ireland, and the Irish Free State, and whose names are registered with the Stock Exchange Committee. The regulations which apply to Remisier are dealt with elsewhere.

**Rentes.**—The French equivalent for the British Consols, though the name is also applied to the annual interest paid on the National Debts of Austria, Italy, and other foreign Governments. The purchaser of consols or rentes buys a right to claim annually a sum of money in perpetuity. The right, however, may be sold and repurchased as often as a person pleases.

**Rig.**—"Rigging the market" is a term employed on the Stock Exchange, and means the forcing up of the market value of a security without reference to its real value. It is usually effected by secretly buying-up so much of a security as will produce an artificial value or a temporary scarcity. The operation often brings considerable profit to the market riggers.

**Runner.**—One who is engaged temporarily in a broker's or jobber's office usually on account days to collect differences and deliver stock. Also a person who secures orders for a broker for the half commission paid by him.

**Sag.**—The slow dwindling of the prices of securities owing to an absence of business.

**Scrip.**—This is a term applied to the bond or certificate denoting a person's holding in any loan or in the capital of any joint-stock company. It is also the name given to the provisional certificate issued in the case of a Government, Corporation, or other loan until such time as the definitive bond or certificate is ready. A subscriber whose application is successful receives a letter of allotment, which is changed for a scrip certificate on payment of the first instalment. After all the instalments have been paid the scrip certificate is exchangeable for a definitive bond or certificate. The expression is used in a general way by Stock Exchange members and their clerks to denote securities to bearer.

**Selling Out.**—The seller of registered securities who does not receive the name of the purchaser by 2.30 p.m. on the intermediate day, is entitled to sell out such securities up to 3 p.m. on that or any subsequent day (twelve o'clock on Saturdays). The procedure is similar to that described under "Buying-in." The broker acting for the seller gives instructions to the Buying-in and Selling-out

Department to sell out the stock or shares, and this order must be executed by the department publicly in the Stock Exchange. The person buying the security from the department must issue a ticket within half an hour, otherwise the security may be transferred into his own name.

**Settlement.**—At the first meeting in September, the Committee fix *twenty-four* Account-days for the ensuing year.

The Settlement consists of

The Contango-day,  
The Ticket-day,  
The Intermediate-day,  
The Account-day.

Should the Account be so fixed that the Contango-day would in the ordinary course fall on a Saturday, the Contango-day is the preceding business day.

**Settling Day.**—See ACCOUNT DAY.

**Settling Room Clerks.**—These are clerks who are allowed access to the settling room of the Stock Exchange for the purpose of checking bargains and attending to the passing of names. They are not allowed in the Stock Exchange, and are required to wear a red button in the lapel of the coat.

**Shake Out.**—A temporary reaction in a rising market. The term is used to denote the shaking out of weak bulls.

**Share Certificates.**—These are documents issued by a public company to its shareholders, showing that the persons named therein are the holders of so many shares in the company. The numbers of the shares and the amount paid up are stated, and the certificates are under the common seal of the company.

The form of a share certificate is commonly as follows—

THE C D COMPANY, LIMITED

“ This is to certify that A B is a registered holder of *m* shares of £*n* each, numbered *p* to *q* inclusive, in the above-mentioned company, and that the sum of £*x* has been paid up on each of the said shares Given under the common seal of the said Company, this 1st day of January, 19...”

A share certificate is *prima facie* evidence of the title of a member to the share or stock comprised therein, and its issue is intended to facilitate dealings in the open market. It is the proper and only documentary evidence of title in the possession of a shareholder. It requires no stamp although it is a document under the seal of the company. But a scrip certificate or other document entitling any person to become the proprietor of any share of a company needs a stamp. If a share certificate is lost it is generally provided by the Articles of Association that a new certificate shall be granted on a proper indemnity being given by the shareholder.

**Share Warrants.**—Share warrants to bearer are by custom treated as negotiable instruments (See *Webb, Hale & Co v. Alexandria Water Co.* (1905), 93 *L.T.* 339.) Share warrants to bearer issued by any Company formed or established in the United Kingdom bear a heavy stamp duty under the Stamp Act, 1891, namely, three times the duty which is payable on transfer. This has operated as a check upon their issue (see **STAMP DUTIES**). The issue and effect of share warrants to bearer is set out under Section 70 of the Companies Act.

**Shares.**—The equal portions of the capital of a joint-stock company.

**Short of Stock or Sold Short.**—An American term equivalent in meaning to the word *bear*. Speculators are said to be short of stock when they have sold what they do not possess.

**Shut for Dividend.**—An expression used when the transfer books of banks and joint-stock companies are closed to permit of the dividend warrants being prepared and issued.

**Single Option.**—See **OPTIONS**.

**Slump.**—A sudden fall in prices.

**Stag.**—An expression used to signify a person who applies for shares in any new company, with the sole object of selling them at a premium, and never intending to hold or eventually subscribe for the shares.

**Stamp Duties.**—The following are the principal rates of stamp duty chargeable in respect of documents relating to Stock Exchange transactions.

**CONTRACT NOTES.** All contract notes which relate to the purchase or sale of any stock or shares are chargeable with stamp duty at the following rates—

Where the value—

	Is under £5	.	.	.	.	Nil
	Is £5 and does not exceed	£100				6d.
Exceeds	£100	„	„	„	£500	1s
„	£500	„	„	„	£1,000	2s
„	£1,000	„	„	„	£1,500	3s
„	£1,500	„	„	„	£2,500	4s
„	£2,500	„	„	„	£5,000	6s
„	£5,000	„	„	„	£7,500	8s
„	£7,500	„	„	„	£10,000	10s
„	£10,000	„	„	„	£12,500	12s
„	£12,500	„	„	„	£15,000	14s.
„	£15,000	„	„	„	£17,500	16s.
„	£17,500	„	„	„	£20,000	18s
„	£20,000	.	.	.	.	20s.

Where a contract note is issued in respect of a contango or continuation, although it relates to both a sale and a purchase, it is chargeable with duty only as if it related to one transaction, and if different rates of duty are chargeable in respect of the two transactions the duty shall be calculated on the one which would render the contract note chargeable at the highest rate. On a contract note for a single option the duty is one-half of that which would be chargeable on a contract note for a sale or purchase. With a double option the contract note is deemed to be a separate contract in respect of each option. The stamp duty on a contract note in respect of an option is not calculated on the option money but on the value of the security. A contract note rendered in respect of the exercise of an option is chargeable with duty at one-half the ordinary rate, provided that it bears a statement by the broker on the face to the effect that it is issued in the exercise of an option for which a duly stamped contract note has been rendered. Where a contract note is issued for the sale or purchase of more than one description of stock or marketable security, the duty is calculated on each separate transaction and not on the total value. Any person who effects any sale or purchase of any stock or marketable security of the value of £5 or upwards as a broker or agent and omits to issue a contract note, or any person who issues a contract note not duly stamped incurs a fine of £20. A contract note issued to a member of a stock exchange in Great Britain or Northern Ireland or to a



person registered with the Inland Revenue Commissioners, as carrying on the business of a stockbroker in Great Britain or Northern Ireland is exempt from stamp duty.

CONVEYANCE OR TRANSFER—The stamp duty payable on conveyances or transfers on sale or operating as voluntary dispositions *inter vivos* of stocks and shares and of registered bonds and debentures is as follows—

Where the consideration does not exceed £5	1s.
"    "    "    "    "    "    £10	2s.
"    "    "    "    "    "    £15	3s.
"    "    "    "    "    "    £20	4s.
"    "    "    "    "    "    £25	5s.

From £25 to £300, 5s. for every £25 or part thereof.

Over £300, 10s. for every £50 or part thereof

The stamp duty payable on any of the following is fixed at 10s.—

(a) A transfer arising from the appointment of a new trustee of a pre-existing trust or from the retirement of a trustee,

(b) A transfer to a mere nominee of the transferor where no beneficial interest in the property passes (the circumstances giving rise to the transfer should be stated),

(c) A transfer as security for a loan, or a re-transfer to the original transferor on repayment of a loan;

(d) A transfer to a residuary legatee, the shares forming part of the residue due to him under a will,

(e) A transfer to a beneficiary under a will who is entitled to the shares as a *specific* legacy,

(f) A transfer to the party or parties entitled thereto, of shares, etc., forming part of the property of a person dying intestate,

(g) A transfer to a beneficiary under a settlement, on distribution of the trust funds, of shares, etc., forming the share, or part of the share, of those funds to which the beneficiary is entitled in accordance with the terms of the settlement

A full explanation of the purpose of the transfer should be given where it is not clearly covered by one of the above clauses.

In all the following cases full stamp duty is payable whatever consideration is shown on the transfer—

(a) On sale,

- (b) In full or part satisfaction of a pecuniary bequest ;
- (c) In liquidation of a debt ,
- (d) In exchange for other securities ,
- (e) By way of gift ,
- (f) To a person who is to hold the shares as security for a loan made to the purchaser

It has been decided by the Inland Revenue that, in the case of a transfer of shares, or stock, where the transferor pays the transferee a certain sum to take over the shares, or stock, and the liabilities thereon, the transfer may be effected on a deed bearing a 10s. stamp. It often happens that a seller of shares, or stock, will object to the consideration money shown on the transfer deed on the ground that it differs from that receivable by him as seller. This difference is occasioned by subsales by subsequent buyers, and the Stamp Act of 1891 provides—

“Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance is to be charged with *ad valorem* duty in respect of the consideration moving from the sub-purchaser.”

If a number of persons shall have sold various shares in the same company to the same buyer they may all be conveyed in the one transfer deed, but the stamp duty must be calculated on each transaction separately.

Transfers in respect of taking-in transactions on the Stock Exchange are chargeable with *ad valorem* duty on the amount of the consideration money actually paid to the vendor, and not with a nominal stamp duty. This was intimated to members of the Stock Exchange in a notice issued by the Commissioners of Inland Revenue in January, 1899.

Transfers must be duly stamped within thirty days of their first being executed, or if first executed outside the United Kingdom, within thirty days after they have first been received in the United Kingdom. Owing to the risk of loss in transit, transfers first executed in the United Kingdom and then sent abroad for completion are allowed to be stamped on satisfactory proof being given to the Inland Revenue officer that they are presented within thirty days of their return to the United Kingdom.

A dealer taking up in his own name or the name of his nominee, stock or shares purchased by him in the ordinary course of business, may have such deed stamped with 10s duty only. On the expiry of two months from the date of transfer, unless the stock has been transferred to a *bona fide* purchaser, he must pay to the Inland Revenue the *ad valorem* duty less the 10s nominal duty originally paid.

All transfers of shares, whether in respect of property situated in the United Kingdom or abroad, are liable to stamp duty if executed here. Transfers of Bank of England Stock on sale or operating as voluntary dispositions *inter vivos*, are chargeable with 15s. 6d. stamp duty; all other transfers with 7s. 9d.

LETTERS OF ALLOTMENT OR RENUNCIATION —If the nominal value is less than £5 the duty is 1d, if £5 or over, 6d. The stamp duty on letters of allotment must be impressed, but on letters of renunciation adhesive stamps may be used, which must be cancelled in a proper manner.

POWER OF ATTORNEY, PROXIES, ETC —A document appointing a proxy to vote at a meeting must be stamped with a duty of 1d

A Power of Attorney for the receipt of interest or dividends must be stamped with 1s duty if for one payment only, and with 5s if for more than one payment

General powers of attorney are chargeable with a duty of 10s.

MARKETABLE SECURITIES —Registered Bonds and Debentures, 2s 6d. per cent.

Bearer Bonds dated or signed after 3rd June, 1862, and on or before 6th August, 1885, 10s per cent.

Bearer Bonds dated or signed after 6th August, 1885, 4s. for every £10 or fraction thereof.

All other Bearer Bonds except Colonial Government or Colonial Municipal Bonds, 4s for every £10 or part thereof.

Share Warrants and Stock Certificates to bearer of any company formed or established out of the United Kingdom, 4s. for every £10 or part thereof.

Share Warrants and Stock Certificates to bearer issued by companies formed or established in the United Kingdom, three times the ordinary transfer stamp duty which would be chargeable if the consideration on the transfer were the nominal value of the shares

or stock American and Foreign Share Certificates passing by delivery, 3d for every £25 or part thereof of the nominal value

Colonial Government Securities dated after 3rd June, 1862, 5s. per cent

Colonial Municipal Securities dated after 3rd June, 1862, 2s for every £10 or part thereof.

Short-dated Securities transferable by delivery (other than Colonial Government Securities) which are to be paid off within three years of the date on which stamp duty is payable, 6d. for every £10 or part thereof if repayable within one year, or 1s for every £10 or part thereof if repayable after one year but within three years

Scrip Certificates and Scrip (1) entitling a person to any share of any company, (2) issued or delivered in the United Kingdom and entitling a person to any share of any foreign or colonial company, (3) stating the right of a person as a subscriber in respect of any loan raised by any company, municipal body or corporation, (4) issued or delivered in the United Kingdom stating the right of a person as a subscriber in respect of any loan raised by or on behalf of any Foreign or Colonial State, Government, Municipal Body, Corporation or Company are all chargeable with a duty of 2d.

**Taker.**—Another term for a bear.

**Taking in Stock.**—Taking in stock and giving on stock are the reverse positions of the people who arrange a Contango. The bull is the giver, the bear the taker. Money-lenders who advance money for the account on stocks and shares are takers-in. In continuation the taker-in of stock becomes the purchaser of it for the current account, but becoming the purchaser he is concurrently bound to deliver back a like amount of stock on the ensuing account.

**Talon.**—A certificate attached to transferable bonds (usually the last portion of the coupon sheet), to be exchanged for an additional series of coupons as soon as those on the coupon sheet have all been presented and paid.

**Tape Prices.**—This term signifies the Stock Exchange and other market quotations as recorded on the tape of the instruments of the Exchange Telegraph Company.

**Ticket.**—On the ticket (or name) day the purchasing broker has

to furnish the seller with the name and address of the person in whose favour the transfer deed is to be prepared. This is done by passing what is known as a ticket or name. The particulars given on this ticket are, the amount of stock purchased, the price—from which the consideration passing and the amount of *ad valorem* stamp duty are calculated, the name, address, and description of the purchaser, and the name of the broker paying for the stock. This ticket is passed through the hands of all the middlemen until it eventually reaches the actual selling broker. On receiving the ticket the selling broker prepares a transfer in accordance with the particulars given, has it signed by his client as seller, and delivers it direct to the buying broker. It frequently happens that, owing to sub-sales of portions of an original transaction, it is necessary to split a ticket in order to pass on the relative portions to the sellers. This is done by making out duplicates of the original for as many as there are actual sellers, each duplicate being marked “Part of stock, split by \_\_\_\_\_” (here follows the name of the person or firm splitting the ticket). Splitting entails the payment of additional stamp duty and registration fees, which are afterwards collected from the person splitting. Tickets pass also in the case of bearer stocks to facilitate the delivery of stock to the actual purchaser instead of through the intermediaries.

**Transfer Book.**—A book kept for the transfer of inscribed stock at the Bank of England, the Crown Agents for the Colonies and other banks acting as registrars of inscribed stocks. The seller only is required to sign his name in the Bank’s register in order to make a transfer.

**Transfer Deed.**—A deed by which stock or shares are transferred. The common form is shown on the next page.

**Transferee.**—The person to whom the document or security is transferred. The buyer named in a transfer deed.

**Transferor.**—The person who parts with the document or security to the transferee. The seller named in a transfer deed.

**Unauthorized Clerks.**—Clerks admitted to the House, but who have no power to transact business on behalf of their employers. They are distinguished by a blue button worn in the lapel of the coat.

**Vendors’ Shares.**—Shares which are taken in lieu of cash by persons who convert their businesses into public companies; they

Stock forwarded  
to the Company's

Office by

In consideration of the sum of  
paid by  
hereinafter called the said Transferee  
Do hereby bargain, sell, assign, and transfer to the said Transferee

of and in the undertaking called  
the

To Hold unto the said Transferee  
Executors, Administrators, and Assigns subject to the several  
conditions on which held the same  
immediately before the execution hereof, and  
the said Transferee, do hereby agree to accept and take the  
said , subject to the conditions  
aforesaid

As Witness our Hands and Seals this day of  
in the year of our Lord one thousand nine  
hundred and

Signed, sealed, and delivered  
by the above-named

In the presence of

Witness { Signature\*  
Address  
Occupation



Signed, sealed, and delivered  
by the above-named

In the presence of

Witness { Signature\*  
Address  
Occupation



Signed, sealed, and delivered  
by the above-named

In the presence of

Witness { Signature\*  
Address  
Occupation



Signed, sealed, and delivered  
by the above-named

In the presence of

Witness { Signature\*  
Address  
Occupation



(This Form is continued on next page)

**NOTE**—The Consideration money set forth in a transfer may differ from that which the first Seller will receive owing to sub-sales by the original Buyer. The Stamp Act requires that in such cases the Consideration money paid by the Sub-purchaser shall be the one inserted in the Deed, as regulating the *ad valorem* duty. The following is the clause in question—

"Where a person having contracted for the purchase of any Property, but not having obtained a Conveyance thereof, contracts to sell the same to any other Person, and the Property is, in consequence, conveyed immediately to the Sub-purchaser, the Conveyance is to be charged with *ad valorem* Duty, in respect of the consideration moving from the Sub-purchaser" [54 & 55 Vict. c. 39 (1891), Section 58, Sub-section 4]

#### Instructions for executing Transfers.

\* When a transfer is executed out of Great Britain it is recommended that the signature be attested by H. M. Consul, or Vice-Consul, a clergyman, magistrate, notary public or by some other person holding a public position, as most Companies refuse to recognize signatures not so attested. When a witness is a Female she must state whether she is a Spinster, Wife, or Widow, and if a Wife she must give her Husband's Name, Address, Quality, Profession or Occupation. The date must be inserted in Words and not in Figures.

take such dividend as may be agreed. Sometimes this is *pari passu* with ordinary shares and at other times deferred. This depends upon the company's Articles.

**Waiter.**—A uniformed official in the Stock Exchange.

#### STOCK EXCHANGE ABBREVIATIONS

- A.B.C.—Aerated Bread Co
- Anglo A.—Anglo-American Telegraph Co deferred
- Atch.—Atchison Topeka and Santa Fé Railroad common.
- Bags.—Buenos Ayres Great Southern Railway ordinary
- Bats.—British American Tobacco Co
- Bays.—Hudson's Bay Co
- Berwick.—London and North Eastern Railway Co.
- Brum.—London Midland and Scottish Railway Co
- B.S.A.—Birmingham Small Arms Co
- Cables.—Cables and Wireless, Ltd
- Canadas. } —Canadian Pacific Railway common.
- Canpacs. }
- Cantabs.—Imperial Tobacco Co. of Canada.
- Celanese.—British Celanese, Ltd.
- Chartered.—British South Africa Co
- Chicks.—Chicago Gault Development Co.
- Childers.— $2\frac{3}{4}\%$  Annuities
- Consols.— $2\frac{1}{2}\%$  Consolidated Stock.
- Cottons.—English Sewing Cotton Co.
- Districts.—Metropolitan District Railway Co
- Dutch.—Royal Dutch Petroleum Co
- Emis.—Electric and Musical Industries, Ltd.
- Eries.—Erie Railroad common.

- Gips.—Great Indian Peninsular Railway.  
 Gippy B.—Anglo-Egyptian Oilfields B  
 Goldfields.—Consolidated Gold Fields of South Africa.  
 Ikeys.—Imperial Chemical Industries, Ltd.  
 Imps.—Imperial Tobacco (Great Britain and Ireland) Co.  
 Ircas.—International Railways of Central America.  
 Irish.— $2\frac{3}{4}\%$  Guaranteed (Irish Land Act)  
 Johnnies.—Johannesburg Consolidated Investment Co.  
 Kangaroos.—British Tobacco Co (Australia), Ltd  
 Knights.—Witwatersrand Gold Mining Co  
 Lobs.—Lobitos Oilfields  
 Mets.—Metropolitan Railway Co  
 Milks.—Chicago, Milwaukee and St Pauls Railroad common.  
 Modders.—New Modderfontein Gold Mining Co.  
 National Seconds.—National Railways of Mexico second preference  
 Nickels.—International Nickel Co. of Canada common.  
 Oceans.—Oceana Consolidated Co  
 Penns.—Pennsylvania Railroad common  
 Rocks.—Rock Island Co common.  
 Sallies.—South African Land and Exploration Co.  
 Shells.—Shell Transport and Trading Co  
 Silvers.—India Rubber and Gutta Percha Co  
 Slops.—Allsopp's Brewery Co.  
 Slubbers.—British Cotton and Wool Dyers' Association.  
 Soos.—Minneapolis, St Paul, and Sault St. Marie bonds  
 Soups.—Southern Pacific Railroad common  
 Spinners.—Fine Cotton Spinners' and Doublers' Association  
 Springs.—Springs Mines.  
 Steels.—United States Steel Corporation common  
 Tanks.—Tanganyika Concessions, Ltd  
 Tintos.—Rio Tinto Co ordinary  
 Tractions.—Brazilian Traction Light and Power Co. common  
 Unions.—Union Pacific Railroad common  
 Venez }  
 V.O.C. } —Venezuelan Oil Concessions  
 Western.—Great Western Railway Co.  
 Zambs.—Zambesia Exploring Co.





RULES AND REGULATIONS  
OF THE STOCK EXCHANGE  
TOGETHER WITH THE APPENDIX  
TO THE RULES



# RULES AND REGULATIONS OF THE STOCK EXCHANGE

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## COMMITTEE

1 On the 20th day of March in every year, or if that day should be a Sunday or Bank Holiday, then on the following business day, a ballot by the Members shall be held for the appointment of a Committee of Thirty Members who shall be called the "Committee for General Purposes," and shall hold office for Twelve months from the 25th of March next following the date of their election, but shall be re-eligible. Notice of such ballot shall be publicly exhibited in The Stock Exchange during Fourteen days previous to the same being held, and a further notice containing the names of the persons on the existing Committee willing to serve again and of all new candidates, their proposers and seconders, shall be publicly exhibited in like manner during Three business days previously to such ballot being held. The Members on the said Committee retiring shall remain in office until the 25th of the same month of March in which their successors shall have been elected, and in case no election shall be made at any such ballot as aforesaid, the Members retiring shall remain in office until the 25th day of March in the following year, or until a valid election shall have taken place under Clause 92 (*Deed of Settlement*). Four business days' notice previous to any ballot of intention to propose any person not already on the Committee and eligible for re-election must be given to the Secretary of the Committee in writing signed by two Members, and the ballot shall be by printed lists containing the names of the persons willing to serve again and of all persons so proposed, distinguishing the former from the latter. In case no valid election be made on the day hereinbefore appointed for that object, the Committee may forthwith, or at any time thereafter, prior to the next ordinary yearly ballot, cause a ballot to be held for such election, on a day to be fixed by the Committee for that purpose, and in all respects, as lastly hereinbefore provided, and the Committee to be appointed by such ballot shall remain in office until the 25th day of March then next following. Every ballot for the election of the Committee for General Purposes, or for supplying vacancies in the Committee, shall be held at The Stock Exchange, and, except as specially provided by these presents, shall be conducted in accordance with the existing practice and usage in reference to such elections. In case of dispute as to what such practice and usage has been in any particular, the Committee shall from time to time determine the same by

Election of  
Committee  
for General  
Purposes

	<p>Resolution Provided always that no ballot shall be necessary where the number of Candidates does not exceed the number of vacancies to be filled and in that case such Candidates shall be deemed to be duly elected —<i>Deed of Settlement</i>, sect xii, cl 90</p>
Qualification	<p>2 (1) No person shall be elected to the said Committee for General Purposes who shall not for the space of Five years immediately preceding the day of election have been a Member, and every person on ceasing to be a Member shall <i>ipso facto</i> vacate his seat on the Committee —<i>Deed of Settlement</i>, sect xii, cl 91</p>
Committee	
Voters	<p>(2) A Member is entitled to vote although he may not have paid his subscription</p>
Occasional vacancy	<p>3 (1) Any occasional vacancy in the said Committee for General Purposes shall be filled up by a ballot of Members to be held for the purpose on a day to be fixed by the Committee for General Purposes, and of which not less than Seven days' previous notice shall be given by the same being publicly exhibited in The Stock Exchange, but otherwise the election shall be carried out in accordance with the provisions of Clause 90 The surviving or continuing Members on the Committee, notwithstanding any vacancy in their number, may act until the same shall be filled up —<i>Deed of Settlement</i>, sect xii, cl 92</p>
Tenure of Office	<p>(2) Any person elected to supply an occasional vacancy in the said Committee shall hold office for the residue of the year in which he shall be elected, and shall then retire with the other Members of the said Committee —<i>Deed of Settlement</i>, sect xii, cl 93.</p>
Procedure	<p>4. (1) The said Committee for General Purposes shall meet at such times as they may from time to time appoint, and shall determine their own quorum (the same to be not less than Seven Members actually present), and mode of procedure —<i>Deed of Settlement</i>, sect xii, cl 98</p>
Quorum	<p>(2) Until otherwise determined, the quorum of the said Committee shall be Seven Members personally present —<i>Deed of Settlement</i>, sect xii, cl 99</p>
Committee to regulate business and make rules	<p>5 (1) The said Committee for General Purposes shall regulate the transaction of business on The Stock Exchange, and may make rules and regulations not inconsistent with the provisions of these presents respecting the mode of conducting the ballot for the election of the Committee and respecting the admission, (which includes re-election) expulsion, or suspension of Members and their clerks, and the mode and conditions in and subject to which the business on The Stock Exchange shall be transacted, and the conduct of the persons transacting the same, and generally for the good order and government of the Members of The Stock Exchange, and may from time to time amend, alter or repeal such Rules and Regulations, or any of them, and may make any new, amended or additional rules and regulations for the purposes aforesaid —<i>Deed of Settlement</i>, sect xii, cl 95</p>
Sub-Committees.	<p>(2) The said Committee for General Purposes may from time to time appoint and remove such Sub-Committees of their own number as they may think fit for any particular purposes or objects or class of purposes or objects, and delegate to them all or any of the powers of the said Committee for General Purposes and may determine and regulate their duties and procedure, and generally may make such regulations for the conduct and</p>

dispatch of business as they may from time to time consider necessary—*Deed of Settlement*, sect. xii, cl. 96.

6 (1) At the first Meeting of the new Committee after the annual election, the Members of the Committee shall elect, from amongst themselves, a Chairman and Deputy-Chairman, who shall respectively hold office till the 25th of March next ensuing. In case either appointment shall become vacant, it shall be filled up as soon afterwards as possible. When the Chairman and Deputy-Chairman are absent, the Meeting shall appoint a Chairman.

Election of  
Chairman  
and Deputy-  
Chairman

(2) In all cases when on a division the votes are equal, the Chairman shall have a second or casting vote.

Casting vote

7 At the first meeting of the Committee, one of the Members of The Stock Exchange shall be chosen Secretary, who shall hold his office during their pleasure.

Secretary

8 Three or more Members shall be appointed by the Committee to act as Scrutineers at elections, who shall report the result of the ballot to the Committee, and to The Stock Exchange.

Scrutineers

9 (1) A Meeting of the Committee shall be held every Monday at a Quarter-past One o'clock, commencing on the first Monday after each annual election.

Meetings  
Routine.

(2) A Special Meeting of the Committee may be called at any time by the Chairman or Deputy-Chairman, or, in their absence or in case of their refusal, by any three Members of the Committee. One hour's notice at least of such Meeting shall be posted in The Stock Exchange.

Special.

10. (1) A Resolution of the Committee shall not be valid or put in force until confirmed, unless it relate to the shutting of the House, the admission of Members, or Clerks, the re-election of Members, the re-admission of Defaulters or insolvents, the authorization to carry on Arbitrage business, the registration of Remisers, the fixing of settling days, the making of securities ex-dividend, the granting or refusing of permission for dealings in New Issues or of official quotations, or confirming or varying a Resolution of a Sub-Committee under Rule 5 (2).

Confirmation  
of Resolution

(2) If a Resolution be not confirmed, and another Resolution be substituted, the substituted Resolution shall require confirmation at a subsequent Meeting.

Substituted  
Resolution

(3) In cases which do not admit of delay, two-thirds of the Committee present must concur in favour of the immediate confirmation of the Resolution, and the urgency of the case must be stated on the Minutes.

Urgent  
Confirmation

11 In all cases brought under the consideration of the Committee, their decision, when confirmed, is final, and shall be carried out forthwith by every Member concerned.

Decisions  
final

12 Notice shall be given in writing of any proposal to alter or add to the Rules, and a copy of such proposal shall be sent to each Member of the Committee.

Alteration of  
Rules

13 All communications to the Committee shall be made in writing, and no anonymous letter shall be acted upon.

Communica-  
tions to be in  
writing

14 Members and their Clerks shall attend the Committee when required, and shall give such information as may be in their possession relative to any matter under investigation.

Members and  
Clerks to  
attend when  
required

15 The Committee may expel any of their own Members from the Committee, who may be guilty of improper conduct. The Resolution for expulsion must be carried by a majority of two-thirds in a Committee specially summoned for the purpose, and consisting of not less than Twelve Members, and must be

Expulsion of  
Members of  
Committee

- confirmed by a majority of the Committee, at a subsequent Meeting specially summoned
- Violation of Rules** 16. (1) The Committee may expel or suspend any Member who may violate any of the Rules or Regulations
- Failure to comply with Committee's Decision** (2) The Committee may expel or suspend any Member who may fail to comply with any of the Committee's decisions.
- Dishonourable, Etc., Conduct Detrimental, or unbecoming Conduct** (3) The Committee may expel or suspend any Member who may be guilty of dishonourable or disgraceful conduct
- Improper or Disorderly Conduct** 17 (1) The Committee may censure or suspend any Member who in his conduct or business may act in a manner detrimental to the interests of The Stock Exchange or unbecoming the character of a Member
- Resolution for expulsion or suspension** (2) The Committee may censure or suspend any Member who may conduct himself in an improper or disorderly manner, or wilfully obstruct the business of the House
- 18 A Resolution for expulsion or suspension must be carried by a majority of three-fourths of a Committee present at a Meeting specially summoned, and consisting of not less than Twelve Members, and must be confirmed by a majority of a Committee present at a subsequent Meeting specially summoned
- Notification to the public** 19 The Committee for General Purposes for the time being may, in their absolute discretion, and in such manner as they may think fit, notify or cause to be notified to the public, that any Member has been expelled, or has become a Defaulter, or has been suspended, or has ceased to be a Member, and the name of such Member. No action or other proceeding shall under any circumstances be maintainable by the person referred to in such notification against any person publishing or circulating the same, and this Rule shall operate as leave to any person to publish and circulate such notification, and be pleadable accordingly
- Power to dispense with Rules and Regulations** 20 The Committee may dispense with the strict enforcement of any of the Rules or Regulations under the following conditions
- (i) A Resolution for this purpose must be carried by a majority of three-fourths of a Committee present at a Meeting specially summoned and consisting of not less than Twelve Members
- (ii) Except in the case of the matters exempted from confirmation by the first clause of Rule 10, the Resolution must be confirmed by a majority of a Committee present at a subsequent Meeting specially summoned

## RE-ELECTIONS, ADMISSIONS, AND RE-ADMISSIONS

21 (1) The Committee shall, on and after the first Monday in March in every year proceed to re-elect such Members and admit such Candidates, as they shall think proper as Members of The Stock Exchange Every such re-election or admission shall be for the term of One year only, commencing on the 25th March then instant or last preceding the re-election or admission of any such person

Re-elections  
and  
Admissions

(2) Such power of re-electing Members and admitting Candidates is hereby declared to be a purely discretionary power, exercisable (and it shall be exercised) by the Committee in a perfectly uncontrollable manner for the benefit of The Stock Exchange as a body (including both Proprietors and Members) and the decision of the Committee in any case or number of cases shall not be liable to be disputed or challenged by any individual affected thereby The Committee shall be under no obligation to give to any applicant for re-election or admission any notice of the grounds or reasons upon or for which the Committee are proposing to act in his case, and the Committee shall not disclose or state to any person whose application they have rejected or to any Court or Tribunal the grounds or reasons of or for such rejection The decision of the Committee upon any application for re-election or admission shall not be liable to be brought into question before or controlled by and shall not be controlled by any Court or Tribunal

Powers of  
Committee.

(3) A person who is not a natural born British subject shall not (except as hereinafter provided) be eligible as a Candidate for admission or, in the case of a former Member, for re-election as a Member of The Stock Exchange, and accordingly shall not be admitted or re-elected as a Member, the Committee may, nevertheless, in any particular case and after consideration of the circumstances affecting such case, if in their uncontrolled and uncontrollable discretion they deem it expedient or proper so to do, admit or re-elect as a Member an applicant who, not being a natural born British subject has altogether abandoned his foreign nationality and has been resident in the British Dominions for Ten years and has been naturalized within such Dominions for Five years or upwards next preceding the date of his application

Birth  
Disqualifi-  
cation

(4) A Member re-elected, admitted or re-admitted shall become liable for the amount of Subscription and Fees fixed by the Trustees and Managers

Naturalization

Liability for  
Subscription  
and Fees

22 Every Member or Applicant for Re-election, Admission or Re-admission shall declare whether he proposes to act as a Broker, Jobber, or Clerk, or that he is not engaged in active business, and no Member shall alter his status from Broker to Jobber or from Jobber to Broker without first giving fourteen days' notice to the Committee, which notice shall forthwith be posted in the House

Status

23. (1) A Member desirous of being re-elected shall, in each year address to the Secretary a letter, of the form No 1 in the Appendix.

Application  
for  
re-election

(2) Each Member of a partnership is required to sign a separate letter

Partners'  
Applications.



Discontinu-  
ance of  
Subscription

24 (1) A Member who is not desirous of being re-elected in any year shall notify to the Secretary his intention not to apply for Re-election Notwithstanding this Notice he may apply at any time during the current Stock Exchange year on Form No 1 in the Appendix, provided he has not exercised his right of nomination or become ineligible under Rule 26

Extension of  
Suretyship

(2) A Member in his sureties availing himself of this Rule shall be required to obtain the written consent of his sureties to an extension of their liability equivalent to the unexpired period (Appendix Form No. 2.)

Re-election  
with two  
Recomm-  
enders.

25. (1) A former Member who has discontinued his subscription for One year under Rule 24, and who has not exercised his right of nomination or become ineligible under Rule 26, may during the following year only apply for Re-election on Form 3 in the Appendix, with two recommenders without security, such recommenders being qualified as laid down in the first clause of Rule 36

Notice

(2) A Notice of such application shall be posted in The Stock Exchange for at least Eight days before its submission to the Committee

Extension of  
Suretyship.

(3) A former Member availing himself of this Rule while in his sureties shall be required to obtain the written consent of his sureties to an extension of their liability equivalent to the unexpired period (Appendix Form No 2)

Ineligible  
for  
Re-election

(4) If he shall have discontinued his subscription for Two years, he must apply for admission as a new candidate

26 A former Member is ineligible for re-election under Rule 24 or 25 who during his absence from The Stock Exchange has become ineligible as a Member under Rule 31 or 32 or who has been engaged as a Principal in any business other than that of the Stock Exchange or has become a Member of or subscriber to or a Shareholder or Debenture holder in any other Institution where dealings in Stocks and Shares are carried on

Nominations

27 (1) A Candidate for membership, except Candidates under Rule 29, shall be required to obtain a nomination before applying for admission The nomination shall be on one of the forms in Appendix 15, which shall only be issued on receipt of a written application signed by the nominator and containing the full name of the nominee

Creation of  
Special  
Rights of  
Nomination

(2) If at any time it shall appear to the Committee that by reason of the operation of this Rule the number of Members admitted is insufficient for the transaction of business in the House, or that it is expedient generally for the good order and government of the Members so to do, of which insufficiency or expediency the Committee shall be the sole judges, the Committee may create such a number of Special Rights of Nomination as they may deem necessary in the circumstances

The Resolution creating such Special Rights of Nomination must be carried by a majority of three-fourths of a Committee present at a meeting specially summoned and consisting of not less than Twelve Members and must be confirmed by a majority of a Committee present at a subsequent meeting specially summoned

Special  
Rights of  
Nomination  
Price

(3) Special Rights of Nomination when created shall be offered for sale to the Members of the House, but at a price not less than the average price which in the opinion of the Committee was paid for nominations sold during the twelve months immediately preceding the date of the Special Resolution creating them and

in any event at a price not less than £2,000 The proceeds of such sales shall be paid to the Trustees and Managers

(4) Any Special Right of Nomination must be exercised and lodged with the Secretary within Twelve months of the date of the confirmation of the Resolution creating it If not so exercised it shall lapse A Special Right of Nomination implies no guarantee of election and in all other respects the election of a Candidate so nominated shall be under the same Rules and subject to the same conditions as if he had acquired the nomination of a Member willing to retire in his favour, or of a former Member, or of the legal personal representatives of a deceased Member

To be exercised within Twelve months

(5) A Candidate nominated by an existing Member shall not be balloted for until the resignation of the nominating Member has been accepted by the Committee

Resignation of Nominating Member

(6) Nominations by other than existing members must be executed and lodged with the Secretary within Twelve months of the death or resignation of the Member or in the event of his discontinuing his subscription, within the current Stock Exchange Year If not so executed and lodged, the right of nomination shall pass to the Committee, who may sell such right to any Member either immediately or at any future time as they may deem fit and the proceeds received as consideration therefor shall be paid to the Trustees and Managers

Term of Right to Nominate

Rights not exercised pass to Committee

A right so sold shall be exercisable by the purchaser within Twelve months of the date of sale, and, unless effectively exercised within that period, the same shall revert to the Committee, who may again offer the same for sale

(7) A nominee must be eligible under these Rules, and, if a Clerk applying for Admission with Two sureties, must have completed the service required by Clause 2 of Rule 33 before the expiry of the right of nomination

Eligibility of Nominee

(8) If a nominee be rejected, a further nomination may be lodged within the prescribed period

Rejection of Nominee

(9) In the case of a deceased Member, the Probate of the Will or Letters of Administration must be exhibited to the Secretary before the issue of the nomination form

Nominee of deceased Member

28 (1) The right of nomination shall be personal and non-transferable

Right of Nomination Personal

(2) The right of nomination shall not be exercised by a person who is expelled, or who has applied for re-election and been rejected, or who ceases to be a Member under Rules 30 or 173, or, in consequence of failing to acquire or hold the share or shares required by Rules 42 or 45, or by any person ceasing to be a Member whilst under suspension; in all such cases and in all cases in which any right of nomination has not been exercised by the parties entitled so to do within the time limited therefor by the Rules, the right of nomination shall pass to the Committee who may sell such right to any Member either immediately or at any future time as they may deem fit and the proceeds shall be paid to the Trustees and Managers

When not to be exercised except by Committee

(3) The right of nomination shall not be exercised by a Member who is re-elected with two Recommenders under Rule 25 or re-admitted under Rule 52 within Four years of his re-election or re-admission, but in the event of the decease of such Member prior to such time, his legal personal representatives may exercise the right of nomination and in the event of the default of such Member prior to such time the Official Assignees shall have

When deferred

- the same right of nomination as in the case of a Defaulter who, previous to his failure, had a right of nomination
- When commences  
Waiting List  
Section A
- (4) A Member admitted without nomination on or before the 22nd December, 1930, or a Member admitted without nomination from Section A of the waiting list shall not exercise the right of nomination until after the term of the liability of his sureties shall have expired by effluxion of time, but in the event of the decease of such Member prior to such time his legal personal representatives may exercise the right of nomination, and in the event of the Default of such Member prior to such time, the Official Assignees shall have the same right of nomination as in the case of a Defaulter who, previous to his failure, had a right of nomination
- Waiting List  
Section B
- (5) A Member who after the 22nd December, 1930, is admitted without nomination from Section B of the waiting list shall not have any right of nomination, unless after the date of his admission he shall have purchased a nomination and registered his name in respect thereof with the Secretary
- Defaulters  
Rights pass  
to Official  
Assignees
- (6) The right of nomination shall not be exercised by a Defaulter, but the Official Assignees for Twelve months after the date of default shall have a right of nomination in the case of any Defaulter, who, previous to his failure, had a right of nomination, should the Official Assignees exercise such right of nomination the proceeds shall be applied in discharge of the Defaulter's debts in The Stock Exchange A Defaulter shall not be required to obtain a nomination before re-admission
- Re-admitted  
Defaulters
- (7) A Defaulter re-admitted after the 22nd December, 1930, in whose case the Official Assignees have exercised the right of nomination shall not have any right of nomination unless after the date of his re-admission he shall have purchased a nomination and registered his name in respect thereof with the Secretary, in all other cases of re-admitted Defaulters the right of nomination shall not be exercised within Four years of the date of re-admission, but in the event of the decease of a re-admitted Defaulter prior to such time his legal personal representatives may exercise the right of nomination, and in the event of the default of a re-admitted Defaulter, prior to such time, the Official Assignees shall have the same right of nomination as in the case of a Defaulter who previous to his failure had a nomination
- Admission  
without  
nomination
29. (1) The Committee shall, at a Special Meeting held in December of every year, fix the number of admissions for the year commencing the 25th March following, to be open to Candidates with Two recommenders without nomination The Resolution fixing the number of Candidates to be so admitted shall not be valid or put in force until confirmed
- Waiting List
- (2) A Clerk having completed Four years' service in The Stock Exchange or the Settling Room in accordance with Clause 2 of Rule 33, may apply on the form No 16 in the Appendix to be placed on the waiting list of Candidates for election without nomination.
- Order
- (3) The names of Clerks so applying shall be placed upon the Waiting List in the order of application, and the list shall be posted in The Stock Exchange in December of each year
- Date for  
Ballot
- (4) Those within the number fixed by the Committee may be balloted for on or after the first Monday in March for the ensuing Stock Exchange year, provided that their application forms duly signed and complete in all respects be lodged with the Secretary at least eight days before the ballot

- (5) A Candidate, within the number fixed by the Committee, who fails to lodge a complete application form within One month from the date of his having the right to do so, shall be placed at the bottom of Section B of the Waiting List, and the next in order or priority shall be entitled to lodge an application form
- (6) A Candidate, whose name has been so placed at the bottom of the Waiting List, shall be altogether removed from that list, if he fail to apply for Membership when he next has the right to do so
- (7) The Committee may at any time remove any name from the Waiting List
- (8) The name of a Clerk who ceases to have admission to the House or the Settling Room for a period of Six consecutive months, shall be removed from the Waiting List
- (9) A Candidate, whose name has been removed from the Waiting List, and who desires to be reinstated, must make a special application to the Committee
- (10) As and from 22nd December, 1930, the Waiting List shall be divided into two sections—
- Section A will consist of clerks who had placed their names upon the Waiting List on or before 22nd December, 1930
- Section B will consist of clerks applying to be placed upon the Waiting List on and after 23rd December, 1930
- Application may be made to transfer from Section A to Section B, applications to transfer made before 17th January, 1931, will be dealt with in accordance with the order in which the applicants' names appear under Section A and names transferred will on Section B have priority over new applications
- The Committee shall allocate to the persons whose names are upon Section A of the waiting list not more than 20 per cent of the number of admissions fixed by the Committee under Subsection (1) of this Rule
- 30 A Candidate is ineligible, if he be engaged as Principal or Employee in any business other than that of The Stock Exchange, or if his wife be engaged in business, or if he be a member of, or subscriber to or be a Shareholder or Debenture holder in any other institution where dealings in Stocks or Shares are carried on, and if subsequently to his admission, he shall become subject to any one of these objections he shall cease to be a Member upon Resolution of the Committee to that effect
- 31 (1) A Candidate is ineligible, who has been a bankrupt, or against whom a Receiving Order in Bankruptcy has been made, or who has been proved to be insolvent, or who has compounded with his creditors, unless he shall have paid 20s in the £, and obtained a full discharge
- 32 A Candidate is ineligible, who has more than once been a bankrupt or insolvent, or compounded with his creditors
- 33 (1) A Candidate for admission must be not less than twenty-one years of age and must be recommended by Three Members Each recommender must engage to pay Five hundred pounds to the creditors of the Candidate, in case the latter shall be declared a Defaulter within Four years from the date of his admission. (Appendix Form No 5)
- (2) If the Candidate has served as a Clerk in the House or the Settling Room for Four years, with a minimum service in the House of Three years, previously to the lodging of his complete application form, Two recommenders only shall be required, who must each enter into an engagement as above mentioned, but for Three hundred pounds (Appendix Form No 5)

Failure to  
apply

Removal by  
failure to  
apply

By  
Committee

By  
Exclusion

Reinstatement

Waiting  
List

Section A

Section B

Candidates  
engaged in  
other  
businesses

Bankruptcy.

Second  
Bankruptcy

Admission  
Three  
Sureties

Two Sureties

- Ineligible with two sureties (3) A Clerk of Foreign birth or a Clerk, who previously to his employment in The Stock Exchange shall have been engaged as Principal in any business, shall only be eligible for admission as a Member with Three sureties for Five hundred pounds each (Appendix Form No 4)
- Notice. (4) A Notice of each application with the names of the recommenders, shall be posted in The Stock Exchange at least Eight days before the Candidate can be balloted for
- Qualification of Recommenders 34. A Member recommending a Candidate must be of not less than Four years' standing, must have fulfilled all his engagements, and must state in writing that he is not and will not be indemnified. He is required to have such personal knowledge of the Candidate, and of his past and present circumstances, as shall satisfy the Committee as to his eligibility
- Statement by Recommenders. 35 Each recommender shall state in writing—  
 (i) That the Candidate fulfils all the requirements of the Rules particularly those of Rules 21, 30, 31, 32 and 33  
 (ii) That he has read the attached statement by the Candidate, and confirms the accuracy of the same  
 (iii) How long he has known the Candidate.  
 (iv) That from his personal knowledge he is satisfied as to the Candidate's fitness both financially and in all other respects to become a member of the Stock Exchange.  
 (v) That the Candidate is free to commence business on his own account forthwith if he so desires  
 (vi) That he is not and will not be indemnified
- Suretyship Eligibility. 36. (1) A Candidate may be recommended by a firm, but not by Two members of the same firm, nor by a Member who is an Authorized or Unauthorized Clerk, nor by a Member whose Authorized Clerk the Candidate may be, nor by a Member whose sureties are still liable.
- Restriction. (2) A Member shall not be surety for more than Two new Members at the same time, unless he take up an unexpired suretyship, when the limit shall be Three
- New Sureties (3) If a Member enter into partnership with, or become Authorized Clerk to one of his sureties, or if any one of his sureties cease to be a Member during his liability, he shall find a new surety for such portion of the time as shall remain unexpired, and until such substitute is provided, the Committee will prohibit his entrance to The Stock Exchange
- Objection 37 A Member, intending to object to the re-election of a Member, the admission of a Candidate or the re-admission of a Defaulter, shall communicate the grounds of his objection to the Committee by letter, previously to the re-election or ballot
- Statement by Candidate 38. A Candidate for Membership shall be required to state in writing—  
 (i) Whether any, and if so, what question arises in regard to his candidature under Rules 31 or 32  
 (ii) His personal history and occupation or employment since he came of age  
 (iii) Whether, if elected, he proposes to act as a Broker or Jobber, on his own account or in partnership  
 (iv) That in the event of his not going into business on his own account, no arrangement or understanding exists or will be entered into directly or indirectly between him and his recommenders that he will not do so, or that he shall act only as a Clerk, during the period of their liability

- 39 The Chairman shall require every Candidate to acknowledge his signature to the form of application and shall put to the Candidate and his Recommenders such further questions as may be deemed necessary Procedure
- 40 The election of new Members shall be by ballot, and must be carried by a majority of three-fourths in a Committee of not less than Twelve Members. Ballot
- 41 If any applicant for re-election, admission or re-admission be rejected, he shall not be voted on, or balloted for again before the 25th of March then next ensuing Rejected applications
- 42 (1) A Member on his election shall, before exercising any of the privileges of Membership, become a proprietor in The Stock Exchange, by acquiring One share in the case of a Member admitted with Two sureties, or Three shares in the case of a Member admitted with Three sureties Should a Member who requires a share qualification fail to obtain the same within Six months, his election shall be cancelled Share qualification
- (2) The Secretary shall not issue an admission notice to a new Member, until it has been reported to him by the Secretary to the Trustees and Managers, that the new Member has been duly registered as a proprietor of the required number of shares Admission Notice
- (3) The Secretary shall not issue a re-election notice to a Member re-elected under Rules 24 or 25 who on his admission required a share qualification, until it has been reported to him by the Secretary to the Trustees and Managers that the Member is duly registered as a Proprietor of the required number of shares Should a Member who requires a share qualification fail to obtain the same within Six months, his re-election shall be cancelled Re-election Notice Rules 24 and 25
- (4) A Member who shall transfer the share or shares constituting his qualification shall forthwith cease to exercise any of the privileges of Membership, and shall cease to be a Member, upon Resolution of the Committee to that effect Transfer.
- 43 (1) A notice of every Defaulter, applying for re-admission, shall, at the discretion of the Committee, be posted without recommenders in The Stock Exchange, at least Twenty-one days, and the Committee shall then take the application into consideration, upon the report of a Sub-Committee, appointed under Rule 46 (Appendix Form No 7) Re-admission of Defaulters Notice.
- (2) After a Defaulter has been re-admitted by ballot, he shall be placed in the first or second class as laid down in Rule 47 and posted accordingly. Class
- (3) A Defaulter may be re-admitted without the above notice in any case where upon the report of the Sub-Committee it is proved that all liabilities have been *bona fide* discharged in full In such case his name shall be posted as having paid 20s in the £ Without notice
- 44 Defaulters declared within Four years of their admission as Members, and Defaulters who have been rejected upon Two ballots, can only be re-admitted by a majority of three-fourths in a Committee specially summoned, and consisting of not less than Twelve Members Three-fourths majority for Re-admission when required.
- 45 (1) A Defaulter, who shall have been originally admitted a Member after the 23rd November, 1904, and who shall have parted with his share qualification, shall on re-admission, before again exercising any of the privileges of Membership, become a proprietor of One share in The Stock Exchange Should a Defaulter's share qualification

	<p>Defaulter who requires a share qualification fail to obtain the same within Six months, his re-admission shall be cancelled (Appendix Form No 8)</p>
Re-admission notice	<p>(2) The Secretary shall not issue a re-admission notice to such a Defaulter, until it has been reported to him by the Secretary to the Trustees and Managers, that the Defaulter has been duly registered as a proprietor of One share</p>
Transfer.	<p>(3) A Re-admitted Defaulter who shall transfer the share constituting his qualification, shall forthwith cease to exercise any of the privileges of Membership, and shall cease to be a Member, upon Resolution of the Committee to that effect</p>
Sub-Committee on Defaulters	<p>46 (1) Upon any application for re-admission by a Defaulter, a Sub-Committee shall investigate his conduct and accounts, and no further proceedings shall be taken by the Committee with regard to his re-admission, until the Report of such Sub-Committee shall have been submitted, together with a statement as to the Defaulter's estate, signed by himself</p>
Duties.	<p>(2) The attention of the Sub-Committee shall be directed,</p> <p>(i) To ascertain the amount of the greatest balance of Securities open at any time during the Account, and at the time of failure, the total amount of his business assets, the current balance at his bankers, and whether the transactions were on his own account, or on account of principals, specifying the amount in each case</p> <p>(ii) To ascertain the total amount paid to his estate, specifying the sums collected in The Stock Exchange, those received from principals and those from the Defaulter himself</p> <p>(iii) To ascertain the conduct of the Defaulter preceding and subsequent to his failure, and to inquire of the Official Assignees whether any matter, prejudicial or otherwise to the Defaulter's application, has transpired at any meeting of creditors, or has officially come to their knowledge elsewhere</p> <p>(iv) To ascertain whether the Defaulter has violated Rule 50</p>
Classes under which Defaulters are re-admitted	<p>47 The re-admission of Defaulters shall be in one of two Classes—</p> <p>The First Class to be for cases of failure arising from the default of principals, or from other circumstances where no bad faith or breach of the Rules and Regulations of The Stock Exchange has been practised; where the operations have been in reasonable proportion to the Defaulter's means or resources, and where his general conduct has been irreproachable</p> <p>The Second Class, for cases marked by indiscretion, and by the absence of reasonable caution</p>
Surrender of names of principals and books	<p>48 A Defaulter shall not be eligible for re-admission who fails to give up the name of any principal indebted to him, or who has not, within Fourteen days from the date of his failure delivered to the Official Assignees or to his creditors, his original books and accounts, and a statement of the sums owing to, and by him, in The Stock Exchange, at the time of his failure</p>
Minimum dividend	<p>49 A Defaulter shall not be eligible for re-admission, who shall not have paid from his own resources, independently of his security-money, at least one-third of the balance of any loss that may occur on his transactions, whether on his own account or that of principals, or who, in the event of his debts being less than the amount which his sureties may be called upon to</p>

pay, shall not have refunded to the sureties one-third of the amount paid by them.

Member  
issuing or  
retaining  
Tickets when  
insolvent

50 A Member who issues or retains a Ticket for Securities, whereby loss is incurred or increased, and who shall be declared a Defaulter in that Account, shall not be eligible for re-admission for at least One year from the date of such default, provided it be proved to the satisfaction of the Committee that he knew himself to be insolvent at the time of issuing or retaining the Ticket

51 The surety of a New Member, who at the time of such Member's admission shall have avowed that he was not and would not be indemnified, and who shall subsequently receive any indemnity, shall in the event of the New Member failing within the time of his liability, be compelled to pay to the creditors any sum so received, in addition to the amount for which he originally became surety

Indemnity of  
sureties

52 (1) A former Member, not a Defaulter, who shall have ceased to be a Member under Rule 173, and who shall have paid 20s in the £, may apply for re-admission with Two sureties of £300 each

Re-admission  
of insolvents

(2) A notice of such application shall, at the discretion of the Committee, be posted in The Stock Exchange at least Twenty-one days, and the Committee shall after consideration of the report of the Sub-Committee appointed under Rule 46, proceed to ballot for his re-admission

Procedure

53 A Member wishing to resign his Membership must forward to the Secretary a letter tendering such resignation, and a copy of this letter shall be posted in The Stock Exchange for at least four weeks before the matter is entertained by the Committee.

Resignation



## PARTNERSHIPS

Partnerships List.	54 (1) In every year, as soon as possible after the 25th March a list of partnerships shall be made out by the Secretary
Alteration	(2) In case of a new, or alteration in an old partnership, the same shall be forthwith communicated to the Committee, and no partnership shall be considered as altered or dissolved until such communication be made
Notices.	(3) All notices relative to partnerships must, unless otherwise ordered by a Committee specially summoned for that purpose, be signed by the parties, countersigned by the Secretary and posted in The Stock Exchange
Contingent	(4) A Member who shall enter into any contract with another Member for a loan of money or Securities on terms contingent on or varying with the profits of the business shall be liable as a general partner. Members entering into such contracts shall notify the same as General Partnerships
Partnerships dissolved by failure	55. The failure of a firm dissolves the partnership, and, should the members of such firm, when re-admitted, desire to renew the partnership, notice thereof must be given to the Committee in the usual way
Prohibited partnerships with Non-Member	56 (1) A Member of The Stock Exchange shall not enter into partnership with any person who is not a Member, and the decision of the Committee as to what constitutes Partnership within the meaning and intention of the Rules shall be final
Contingent.	(2) A Member shall not borrow money or Securities from a Non-Member on terms that the lender shall receive a rate of interest varying with the profits or shall receive a share of the profits arising from carrying on the borrower's business
Between Brokers and Jobbers	(3) Partnerships between Brokers and Jobbers are prohibited
Market. partnerships	57 (1) Members dealing generally together in any particular Securities and participating in the result, shall be held responsible for the liabilities of each other, not only in the Securities in which they are jointly interested, but also in any other description of Securities in which either of them may transact business, unless they shall have forwarded to the Secretary a written notice on Form No 17 in the Appendix, specifying the particular Securities in which they deal on joint account
Limitation.	(2) Market Partnerships are only permitted between Members or Firms, who each deal and settle their bargains in their own name
Number and Market.	(3) No Market Partnership shall consist of more than Two Members or Firms, nor shall such Partnership be carried on in any other Markets than those in which both parties are dealing
Notices.	(4) All Market Partnerships must be notified to the Secretary and posted in The Stock Exchange

# CLERKS

58 (1) A Member desirous of obtaining the admission of an Authorized, Unauthorized or Settling Room Clerk shall apply for the permission of the Committee on one of the Forms 18, 19 or 20 in the Appendix

Admission of Clerks

(2) A Member who has any arrangement for the sharing of Commission with another Member shall apply for his admission as a Clerk on Form 18 or 19 in the Appendix

Members as Clerks.

(3) A Member who employs another Member as his Office Clerk shall apply for his admission as a Clerk on Form 19 in the Appendix

Members as Office Clerks

59 (1) A Member may be permitted to introduce Three Clerks to the House, One of whom may be Authorized, also Two Settling Room Clerks

Number Individual.

(2) A Firm may be permitted to introduce Five Clerks to the House, Two of whom may be Authorized, also Six Settling Room Clerks

Firm

(3) Members may be employed as Unauthorized Clerks in excess of the numbers above allowed, and Members may be employed as Authorized Clerks in excess of the numbers above allowed, with a limit of Three for an individual Member and Five for a Firm of Two Partners with (subject to a maximum of Eight) an additional One for each Partner in excess of Two

Members as Clerks

60 A Member desirous of employing a temporary Clerk in lieu of a Clerk absent at Territorial Training shall apply on one of the Forms 21 or 22 in the Appendix, subject to the Regulations printed thereon.

Temporary Clerks.

61 A Member renting a seat in the Decoding Room shall apply for permission to register a Clerk on Form 23 in the Appendix, subject to the Regulations printed thereon

Decoding Clerks

62 A Member employed as Clerk, whether Authorized or Unauthorized, shall not make any bargain in his own name.

Status of Members acting as Clerks

63 A Member, who was acting as Clerk to a Defaulter at the time of default, or to a person who has ceased to be a Member by expulsion or under Rule 173, or to a Member under suspension, shall not make any bargain in his own name, nor shall he be admitted as Authorized Clerk to another Member until he has obtained the permission of the Committee at a meeting specially summoned for that purpose

Clerks of Defaulters

64 A Member applying for the admission of a Clerk must satisfy the Committee—

Member's Responsibility

(i) That the Clerk is of the requisite age, i.e., for an Authorized Clerk 21, for an Unauthorized or Settling Room Clerk 17

Age

(ii) That the Clerk would be in all other respects eligible for admission as a Member

Eligibility.

(iii) That he has obtained a satisfactory Reference from the Clerk's last employer

Reference

(iv) That he has a sufficient knowledge of the Clerk's previous career.

Previous career

65 (1) A Member may apply for the admission of a Defaulter as his Clerk, either Authorized or Unauthorized, or to the Settling Room, though the Defaulter may not have complied with Rule 49

Defaulters as Clerks

Bankrupts, &c, as Clerks	(2) A Member may apply for the admission, as his Clerk, of a former Member, not a Defaulter, who has ceased to be a Member under Rule 173, though such person may not have complied with Rule 31
Notice.	( ) A notice of such application shall at the discretion of the Committee be posted in The Stock Exchange for at least Twenty-one days, and the Committee shall then take the application into consideration in the case of Defaulters upon the report of the Sub-Committee appointed under Rule 46
Majority	(4) A Resolution allowing such application must be carried by a majority of three-fourths of those present
Subsequent Application	(5) The foregoing procedure shall not apply in the case of a Defaulter, Bankrupt, or Insolvent who has previously been re-admitted as a Clerk
Clerks previously engaged in business	66. When application is made for the admission as a Clerk of a person who has previously been engaged in business out of The Stock Exchange, the name and address of such person, together with the name of the Member applying for his admission, shall be posted in The Stock Exchange Eight days prior to the application being considered by the Committee
Authorized Clerks	67 (1) A Clerk shall not be authorized to transact business until he has been admitted to the House or the Settling Room for Two years, with a minimum service in the House of One year
List.	(2) A list of Authorized Clerks, distinguishing those who are also Members, and the names of their employers shall be posted in The Stock Exchange
Market	(3) The Authorized Clerk of a Jobber shall not carry on business in any Market other than that in which his employer deals
Borrowing without Surety	(4) A Member authorizing a Clerk to transact business shall not be held answerable for money borrowed by the Clerk, without security, unless he shall have given special authority for that purpose
Badges	68 An Unauthorized or Settling Room Clerk, not being a Member shall wear a distinctive Badge in the lapel of his coat, and his employer shall be responsible for the Badge being worn in accordance with the Regulations laid down in Appendix 30
Notice of Admission	69 A Clerk shall not enter the House or the Settling Room, nor shall an Authorized Clerk do a bargain, until his employer shall have received from the Secretary notice of his admission or authorization (Appendix Forms Nos 24, 25, 26, 27, and 28)
Withdrawal	70 A Member parting with a Clerk or withdrawing his authorization, shall give notice in writing to the Secretary, who shall forthwith communicate the same to The Stock Exchange in the usual manner
Clerks of Defaulters	71 (1) Clerks of Defaulters are excluded from The Stock Exchange
Deceased Members	(2) Clerks of deceased Members may, by permission of the Chairman, the Deputy Chairman, or Two Members of the Committee, enter the House for the purpose of adjusting unsettled accounts
When special permission is required	72 No Member shall, without the special permission of the Committee, take into, or continue in, his employment, in any capacity in any business carried on by him as a Member, any former Member who has been expelled

## GENERAL RULES

73 The Stock Exchange does not recognize in its dealings any other parties than its own Members. every bargain, therefore, whether for account of the Member effecting it, or for account of a principal, must be fulfilled according to the Rules, Regulations and usages of The Stock Exchange

Bargain

74 An application which has for its object to annul any bargain in The Stock Exchange shall not be entertained by the Committee, except upon a specific allegation of fraud or wilful misrepresentation or upon prima facie evidence of such material mistake in the bargain as in their judgment renders the case one which is fitting for their adjudication.

Inviolability of bargains

75 (1) All disputes between Members not affecting the general interests of The Stock Exchange which arise out of Stock Exchange transactions or are connected with Stock Exchange business and including partnership disputes, shall be referred to the arbitration of a Member or Members of The Stock Exchange and the Committee will not take into consideration such disputes unless arbitrators cannot be found, or are unable to come to a decision

Arbitration.

(2) The decision of the Committee as to whether a dispute affects the general interests and, if so, how it shall be dealt with shall be final

Decision of Committee Final.

(3) A Member shall not without the consent of the Committee attempt to enforce by law any claim arising out of such dispute

Legal proceedings forbidden Committee's intervention

76. The Committee have power to intervene in cases where the principal of a Member shall attempt to enforce by law a claim against another Member, which is not in accordance with the Rules, Regulations and usages of The Stock Exchange, and will deal with such cases as the circumstances may require.

77 If a Non-Member shall make any claim or complaint against a Member, the Committee shall in the first place consider whether such claim or complaint is fitting for their adjudication, and in the event of their deciding in the affirmative, the Non-Member shall, previously to the case being heard by the Committee, sign the form of Reference No 31 in the Appendix.

Claims or Complaints by Non-Members

78 A Member of The Stock Exchange is not allowed to advertise for business purposes or to issue Circulars or business communications to persons other than his own Principals

Advertising prohibited

79 All members shall, until further order of the Committee, state on all Correspondence relating to the transaction of business on The Stock Exchange and Contract Notes—

Particulars of Firms.

- (i) The name of their firm, if any,
- (ii) The names of all the partners therein; and
- (iii) Where the name of the Member or any partner of foreign birth has been changed since 4th August, 1914, his original name in brackets after his new name

80 The Committee may refuse to allow a Member or Firm to carry on business under a name which they consider misleading

Misleading Names.

81 A Broker issuing a contract note shall use such a form as will provide that the words "Member of The Stock Exchange London," shall immediately follow the signature

Contract note.

82. A Member shall not transact speculative business directly or indirectly, for or with an Official or Clerk in any public or

Speculative business for employees

	private establishment, without the written consent of his employer.
Private dealings with individuals of a firm prohibited	83. A Member shall not do a private bargain with an individual member of a firm in The Stock Exchange, such bargain being wilfully concealed from the firm
Dealings with Clerks	84 (1) A Member or Authorized Clerk shall not do a bargain with a Clerk, whether a Member or not, for account of such Clerk
Dealings for Clerks	(2) A Member or Authorized Clerk shall not deal for a Clerk to another Member without first obtaining the consent of such Member
Business for or with person expelled	84a A Member shall not without the special permission of the Committee carry on business for or with a person who has been expelled from The Stock Exchange, nor without the special permission of the Committee shall he share commission with such person
Business for Defaulting Principals	85 A Member shall not transact business for a Principal who, to his knowledge, is in default to another Member, unless such principal shall have made a satisfactory arrangement with his creditors
Double Capacity	86 No Member or Authorized Clerk shall carry on business in the double capacity of Broker and Jobber
Brokers	87 A Broker shall not make prices or otherwise carry on the business of a Jobber. He shall not carry on Shunting business, nor shall he carry on Arbitrage business except as authorized under Rule 92
Bargain between Non-Members	88 (1) A Broker shall not receive brokerage from more than one Principal on a transaction carried through directly between two Principals, and each contract note shall state that the bargain has been done between Non-Members
Brokerage	(2) Subject to the provisions of Rule 204(4), Brokerage shall be charged to the Non-Member who initiated the business
Simultaneous Orders	89 (1) When a Broker receives an order from one Principal to buy and from another to sell the same security and executes the two orders simultaneously with the same Jobber, the prices agreed upon must be such as at the time of dealing are believed to be fair to both Principals
Put through by Broker prohibited.	(2) A Broker may not put business through for another Broker
Orders executed with Non-Members.	90 (1) A Broker shall not execute an order with a Non-Member, unless thereby he can deal for his Principal to greater advantage than with a Member. In such a case he shall not receive brokerage from such Non-Member, and each contract note shall state that the bargain has been done between Non-Members. Business which in fact comes under the conditions of this rule shall not be put through a Jobber's book, nor shall any other procedure be adopted in order to bring such business under the provisions of Rule 89
To be marked	(2) All bargains done with or between Non-Members, whether within the official hours or not, must be marked without delay and the time of dealing entered on the marking slip
	Such markings shall be recorded, unless withheld by authority of the Chairman or Deputy-Chairman, or Two Members of the Committee
Dealing	91 A Jobber shall not deal for or with a Non-Member. He shall not carry on Shunting business, nor shall he carry on Arbitrage business except as authorized under Rule 92
Arbitrage	92 Subject to annual authorization by the Committee a Member, whether Broker or Jobber, may carry on Arbitrage

business outside Great Britain and Northern Ireland and the Irish Free State with a Non-Member, but a Broker so authorized shall not make prices or otherwise carry on the business of a Jobber, and a Jobber so authorized shall not act as an agent by executing orders for such Non-Member, nor shall he apply to such business the provisions of Section 42 of the Finance Act, 1920 (Appendix Form No 32)

93 A Member shall not deal in prospective dividends

94 A Member shall not do an option for a period beyond the seventh ensuing Account Day [But see Rule 183 (1) (i)]

94a No Member or Clerk is allowed to take out a Bookmaker's Certificate or to use The Stock Exchange, his office, or the office of any Member, as "Betting Premises"

95 The Stock Exchange will, unless otherwise ordered by the Committee, be closed on the following days, viz.—

1st January,	1st May,
1st November,	and on all Bank Holidays

When the 1st January, 1st May, or 1st November falls on a Sunday, the House will be closed on the day following

Dealings in  
dividends  
prohibited  
Long options  
prohibited  
Bookmaker's  
Certificates

Holidays

## BARGAINS AND THE SETTLEMENT OF ACCOUNTS

Account Days      96 The Committee shall at their first meeting in September fix twenty-four Account-days for the ensuing year  
The Settlement shall consist of

The Contango-day,  
The Ticket-day,  
The Intermediate Day  
The Account-day

British  
Funds, etc.

Should the Account be so fixed that the Contango-day would in the ordinary course fall on a Saturday, the Contango-day shall be the preceding business day

97 Forward Bargains and Options for settlement on the Account Days are prohibited in all Securities under the headings, "British Funds" and "Dominion, Provincial and Colonial Government Securities"

Settlement  
Department.

98 A Firm or Member dealing either as a Broker or Jobber in Securities of which the Settlement Department undertakes the Settlement shall be a Member of that Department

Settling  
Room

99 Every Firm or Member engaged in active business is required to have a Box in the Settling Room

Instalment on  
Scrip

100 In case the payment of an instalment on Scrip falls on an Account-day, the settlement of such Scrip shall take place on the previous day.

Bargains when  
no time  
specified

101 (1) When no time is specified, Bargains are for the current Account, but those made on the Contango-day are for the ensuing Account

New Issues

(2) When no time is specified Bargains in New Issues are for the Account, but in cases where Letters of Renunciation on which nothing has been paid are issued Bargains are for cash during the currency of such Letters

When Seller  
can demand  
Payment

101a A Seller cannot demand payment against delivery before the date fixed by the contract, but subject to the other provisions of these Rules he may do so at any later date before the security has been bought in, and time shall not be of the essence of the bargain

Offers to Buy  
or Sell

102 An offer to buy or sell an amount of Stock, Bonds or Shares at a price named, is binding as to any part thereof that may be a marketable quantity and an offer to buy or sell Stock, Bonds or Shares when no amount is named, is binding to the amount of—

£1,000 Stock or Bonds or the equivalent in Foreign  
Currency

100 Shares of a market value of less than £1

50      "      "      "      "      £1 to £15

10      "      "      "      "      over £15

100 American Dollar Shares

Delivery of  
Securities

103 (1) The delivery of Securities shall commence at Ten o'clock

(2) Unless otherwise arranged no delivery of Securities shall take place on Saturdays

Cheques

or the Bank of England, Threadneedle Street, and presented for payment through the Clearing House. They must be crossed, marked "not negotiable" and be payable to Bearer, with the exception of Cheques for Dividends, which may be drawn to order.

(2) If a Member require Bank Notes in payment for Securities sold, without having made such stipulation at the time of making the bargain, he must give notice to his Buyer to that effect before Half-past Eleven o'clock on the day of delivery, and payment shall be made upon delivery of the Securities, or the Stock receipt.

Demand for Bank Notes

(3) A Member cannot demand Bank Notes in payment of Differences.

Differences

105 A Member shall not be obliged to take a reference for payment to a Non-Member; nor shall he be obliged to pay a Non-Member for Securities bought in The Stock Exchange.

Reference to Non-Member for payment

106 A Seller has the right to demand payment for securities from the Member who passed him the Ticket, and in case the Seller apply to the issuer of the Ticket, and fail to obtain payment, or receive a cheque which is dishonoured, the Member from whom he received the Ticket shall make immediate payment.

Seller may require payment from his Buyer

107 A lender is not entitled to place beyond his control Securities received as security for a Loan; and may, after reasonable notice, and upon payment of the principal together with interest up to the time for which the Loan was originally made, be required to return the identical Bonds, or to re-transfer the Securities given as security for such Loan. This liability does not apply to a Member who has taken in Securities upon continuation.

Security for Loans

108 Continuations are Bargains and not Loans, but the provisions of Rule 128 (3) may not be applied.

Continuations

Continuations done on the Contango-day must be effected at the Making-up Price on any subsequent day they must be effected at the then existing Market Price.

109 (1) The Clerk of the House shall fix the Making-up prices of all securities included in "The Stock Exchange Official List of Making-up Prices," by taking the actual Market Price at Eleven o'clock on Contango-day. In the case of Securities which have been made ex-dividend on the Contango-day, the Clerk of the House shall fix the Making-up Price by taking the cum-dividend cash price.

Making-up Prices

(2) No Making-up shall be binding unless at the Official Making-up Price or where none is fixed at the then existing Market Price.

Binding

(3) In case of dispute as to the Making-up Price, or of any omission in fixing the same, the Clerk of the House shall act upon the decision of Two Members of the Committee.

Dispute.

(4) The Making-up Prices so fixed shall be published in The Stock Exchange Official List of Making-up Prices under the authority of the Committee and subject to the Regulations contained in Appendix 33.

List

110 (1) The time for the Declaration of Options is a Quarter before Three o'clock, or on Saturday a Quarter before Twelve o'clock, on the day before the Contango-day.

Declaration of Options

(2) If the day for the Declaration of Options should be one on which The Stock Exchange is closed, they shall be declared on the preceding business day.

When House closed

(3) In the case of Options done for and declared on the Contango-day the bargains, both for the firm stock and the Option

For Contango-Day.



stock shall be for settlement on the Settling-day of the following Account

Making  
Securities  
Ex-dividend  
Government  
Securities

111 (1) Government and Corporation Securities, Inscribed, Registered, Scrip, Certificates or Bonds, shall be made ex-dividend on the day after that on which the Books close for the payment of the dividend, except Victory Bonds which shall be made ex-dividend ten days prior to the payment of the dividend

Transfer.

(2) Securities deliverable by Deed of Transfer, except Registered Debentures, shall be made ex-dividend on the Contango-day following the date on which the dividend may have been declared, provided the Transfer Books have already been closed for the payment of the dividend. If the Transfer Books are not closed until after the dividend has been declared, the securities shall be made ex-dividend on the Contango-day following the closing of the Books

Bearer  
Securities and  
Registered  
Debentures

(3) Securities to Bearer and Registered Debentures shall be made ex-dividend on the day when the dividend is payable, but Securities to Bearer with Coupons payable only abroad may be made ex-dividend on the Contango-day which shall allow the necessary time for the transmission of the Coupon for collection

American  
Shares

(4) (a) "American Shares" (both quoted and unquoted) shall be made ex-dividend on the day following that on which they are dealt in ex-dividend in New York or other "American" Exchange

(b) In the case of "American" Companies which have a London Register, if, in any event, the London Books have not been closed on the date following that on which the Shares are dealt in "ex-dividend" in New York, or other "American" Exchange, the Shares shall not be made ex-dividend until the London Books have in fact been closed

Income Tax

112 (1) In the settlement of all bargains except those coming under the provisions of Rule 139 (2) and 5% War Loan, 1929-47, Inscribed and Transferable by Deed, dividends are to be accounted for at the net amount receivable after deduction of Income Tax

Accrued  
Interest  
Drawn  
Securities

(2) Accrued interest on Securities excepted in Rule 138 shall be paid without deduction of Income Tax

113 (1) Bargains must be settled in Securities which have not been drawn.

Buyer's  
Rights.

(2) In case of the erroneous delivery of any Drawn Securities, the Buyer, on receipt of Undrawn Securities, and on allowance being made for any drawing or dividend of which he may have lost the benefit, shall deliver such Securities back to the person who held them at the time of the drawing, or shall pay to him any proceeds received from such drawing, provided the said Securities or the proceeds thereof be traced to, and remain in the possession and under the control of such Buyer, all intermediate Members being released from liability

Seller's  
Rights

(3) No claim by the Seller in respect of the erroneous delivery of Drawn Securities will be entertained by the Committee unless made within Nine calendar months from the day of delivery

Buyer's  
Rights  
Market  
Value of  
drawing  
Rights

(4) In the case of Securities bought before but delivered on or after the date of the drawing the seller shall pay to the buyer the market value of the drawing, to be determined in case of dispute by the Secretary of the Share and Loan Department

114 (1) The Buyer is entitled to new Securities issued in right of old, provided that he specially claim the same in writing from the Seller not later than Four o'clock, or Twelve o'clock on

Saturday, on the day pieceding the latest day fixed for the receipt of applications in London

(2) Notwithstanding the provisions of the above Clause, the Seller if he be in possession of the new Securities shall be responsible to the Buyer for the same, although claimed by him later than Four o'clock on the above-named day and should he not be in possession of the new Securities he is bound to render every assistance to the Buyer in tracing the same

Responsibility,

(3) (a) Claims for rights are claims for the new Securities issued in right of old, but when practicable are to be settled by Letters of Renunciation

Letters of Renunciation

(b) Claims for Renunciation Letters are invalid

(c) A member shall not be required to accept Letters of Renunciation after a Quarter before Two o'clock on the latest day fixed for the receipt of applications in London

(4) Where Letters of Renunciation are not issued, all payments as and when required by the Company are to be advanced to the Seller by the Buyer, who may demand a receipt for the same, such payments being for Securities to be delivered after leave to deal has been granted

Payments

(5) The Secretary of the Share and Loan Department will on application fix a price at which the new Securities may be temporarily settled, which may be deducted by the Buyer from the purchase money of the old Securities until the delivery of the new Securities

Temporary Settlement

115 (1) When Securities on which Options are open are made "Ex Rights" an official price will on application to the Secretary of the Share and Loan Department be fixed for the Rights.

Rights on Option Stock

(2) All Rights in respect of Options shall be settled by the allowance of such valuation in the Option price.

Valuation

# GOVERNMENT AND CORPORATION INSCRIBED OR REGISTERED STOCKS, ETC.

- Times for Delivery Under Rule 106.** 116 (1) Stock receipts must be delivered by a Quarter before Three o'clock
- (2) If a deliverer elect under Rule 106 to deliver a Stock receipt to the Member with whom he has dealt, such Member not being the issuer of the Ticket, he shall deliver such receipt by Half-past Two o'clock
- Deed Stock and Bearer** (3) Securities under the headings "British Funds," "Dominion, Provincial and Colonial Government Securities," and "Corporation and County Stocks," transferable by Deed or to bearer, must be delivered by a Quarter-past Two o'clock
- Bank Stock** 117 The Seller of Bank Stock shall pay the transfer fees and the Buyer may require as many transfers as there are even thousand pounds Stock in the sum dealt in
- Exchequer Bonds, etc** 118 Bargains in Exchequer Bonds and in Stock Certificates are for Bonds and Stock Certificates not filled up to order
- Inscribed Stock.** 119 A Buyer of British Government Stocks is entitled to delivery of Inscribed Stock unless otherwise arranged
- Deduction of Dividend** 119a The Buyer is entitled to deduct the dividend when paying for Securities of which the books are closed for the payment of the dividend

## SECURITIES DELIVERABLE BY DEED OF TRANSFER

120 (1) The Seller of Securities is responsible for the genuineness and regularity of all documents delivered

Regularity of documents

(2) When an official Certificate of registration of such Securities has been issued, the Committee will not, unless bad faith is alleged against the Seller, take cognizance of any subsequent dispute as to title, until the legal issue has been decided, the reasonable expenses of which legal proceedings shall be borne by the Seller.

Disputed title after registration

(3) The Seller is responsible for such dividends as may be due to the Buyer unless an unreasonable time has been taken by the transferee to execute and lodge the documents for registration, or there has been unreasonable delay in claiming the dividend

Dividends

121 The Committee will not, except under special circumstances, interfere in any question arising from the delivery of Securities by transfer in blank

Blank transfers

122 (1) The Buyer, who takes up Securities deliverable by deed of transfer, shall issue a Ticket, with his name as payer of the purchase-money, which Ticket shall contain the amount and denomination of the Security to be transferred, the name, address and description of the transferee in full, the price, the date and the name of the Member to whom the Ticket is issued. Each intermediate Seller, in succession, to whom such Ticket shall be passed, shall endorse thereon the name of his Seller

Procedure on Ticket-days

(2) The buyer shall issue his Ticket before Three o'clock on the Ticket-day

Time for Issue

(3) All Tickets representing Securities which, at the time, are subject to arrangement by the Settlement Department, and all Tickets representing Securities dealt in in the Mining Markets or in the Rubber Section of the Miscellaneous Market which are included in "The Stock Exchange Official List of Making-up Prices" shall be passed through the accounts at the Making-up Price of the Contango-day, and the Securities paid for at that price, but the consideration money in the deed must be at the price on the Ticket

Settlement Department, etc., Securities

(4) The passing of Tickets shall commence at Ten o'clock

Passing of Tickets Time At Office

(5) Tickets may be issued and left at the Office of the Seller on the Contango Day (subject to Rule 149) and up to Three o'clock on the Ticket-day. After this hour all tickets must be passed in the Settling Room

(6) Tickets may be placed in the Boxes in the Settling Room up to Eleven o'clock on the Account-day

In boxes.

(7) (a) A member receiving a Ticket from the Issuer after Three o'clock on the Ticket-day shall note the fact on the back of the Ticket

Endorsement of Time

(b) For securities which are subject to arrangement by the Settlement Department a Member receiving a Ticket after Two o'clock on the Intermediate-day or at any time on any subsequent day shall mark the date and the exact time at which such Ticket is received

(c) For securities which are not subject to arrangement by the Settlement Department a Member receiving a Ticket after Six o'clock on the Ticket-day or at any time on any subsequent day

shall mark the date and exact time at which such Ticket is received

Liability	(8) Members omitting to note the time thus fixed may become liable for losses occasioned by Selling-out
Split Tickets	123 (1) A Member splitting a Ticket shall retain the original Ticket, and, should he fail to do so, he will be required to trace it in case of Selling-out
Names	(2) Split Tickets must bear the name of the issuer of the original Ticket, and must state by whom the Ticket is split
Increased Expenses	(3) A Member splitting a Ticket shall pay any increased expense caused by such splitting
Limit of Time	(4) A claim for loss on a Split Ticket shall not be valid unless made by the original Claimant within Three Months after the date of the Ticket, but the Member splitting the Ticket shall be liable to intermediate Claimants for a period of Four Months
Settlement Department	(5) The liability of Members to the Settlement Department for losses on Split Tickets collected by the Department shall extend for a period of Six Months from the date of the Ticket
Antedated or undated Tickets	124 A Member not refusing an Antedated Ticket, when tendered as such, takes it with all its liabilities, but if it be passed as an ordinary Ticket, the liabilities remain with the Member putting such Ticket again into circulation. A Member holding an undated Ticket shall not be liable for any loss arising from the Securities having been bought in, unless such Ticket has been Seven days in his possession
Alteration or detention of Tickets	125 A Member who makes an alteration in, or improperly detains a Ticket, shall make good any loss that may occur thereby
Price on Ticket	126 (1) The deliverer shall cause the Securities to be transferred at the price marked upon the Ticket (2) Tickets should be issued at the price of the bargain. In the case of Securities taken up subsequently to their being continued Tickets should be issued at the making-up price at which they were last continued
Pending Calls	127 The deliverer may, previous to delivery, pay any call made on registered Securities, provided a call letter has been issued, and claim the amount of the issuer of the Ticket, on delivery
Stamps	128 (1) The Buyer of Securities shall pay the stamp duty and also the transfer registration fee in cases where it has been paid in advance by the Seller.
Loan.	(2) In the case of a Loan, the borrower shall pay the nominal consideration stamp, the registration fee and the mortgage stamp
Transfers to Jobbers	(3) A Jobber requiring a Transfer to himself or his nominee under the provisions of Section 42 of the Finance Act, 1920, shall issue a numbered Ticket bearing a certificate in the following terms signed by the Jobber— “Delivery on a Ten Shilling Stamp under the Finance Act, 1920, Section 42 “I (We) certify that the purchase referred to in this Ticket was effected by me (us) in the ordinary course of my (our) business as a Jobber(s) on The Stock Exchange” Any Split Ticket must bear a copy of the Certificate.
Split Tickets	The Transfer when delivered must bear the Ten Shilling Stamp and either the Supplementary Stamp required by the Act, or a signed endorsement by the delivering Broker to the following effect—
Supplementary Stamp	

" I (We) hereby declare that this Transfer was delivered  
by me (us) to  
on the  
(Signed)

*Members of The Stock Exchange*

(4) A Jobber shall not apply to a Continuation the provisions of Clause (3) of this Rule

129. (1) The Buyer of Securities may refuse to pay for a transfer deed unaccompanied by the Certificate, unless it be officially certified thereon that the Certificate is at the office of the company. But if the transfer deed be perfect in all other respects, the Securities must not be bought in until reasonable time has been allowed to the Seller to obtain the certification required

Certificates or  
Certification

(2) If the Seller have a larger Certificate than the amount of Stock conveyed, or only one Certificate representing Stock conveyed by two or more transfer deeds, the Certificate may be deposited with the Secretary of the Share and Loan Department of The Stock Exchange, or an official of that Department to be appointed for the purpose, who shall forward it to the office of the company, and certify to that effect on the transfer deeds, which shall then be a valid delivery. No person is to look to the Trustees and Managers or Committee of The Stock Exchange, as being liable for the due or accurate performance of those duties, the Trustees and Managers and Committee holding themselves, and being held, entirely irresponsible in respect of the execution, or of any mis-execution, or non-execution, of the duties in question

Share and  
Loan  
Department

The foregoing provisions shall apply to any transfer of any Shares which the Department may at any time certify

(3) A transfer deed shall be deemed to be officially certified if it is certified (a) by or on behalf of the Company concerned, (b) by an official of the Share and Loan Department as provided in Clause (2), or (c) by an authorized official of any Stock Exchange affiliated to the Council of Associated Stock Exchanges provided that the Committee has by Resolution agreed to recognize such certification <sup>1</sup>

130 On the morning of the Account-day all unsettled bargains shall be brought down and temporarily adjusted at the Making-up price of the Contango-day.

Temporary  
Adjustment  
of Accounts

131 (1) A Member shall not be required to pay for Securities presented after a Quarter before Two o'clock

Time for  
Payment

(2) If a deliverer elect to settle with his immediate Buyer, under the provisions of Rule 106, he shall deliver his Securities before Half-past Twelve o'clock, but Intermediaries on the trace are bound to pay their Sellers up to One o'clock

Under  
Rule 106.

<sup>1</sup> Resolution confirmed 19th October, 1931—

That under Clause (3) of Rule 129 the Committee for General Purposes agree to recognize certification of transfer deeds by the authorized officials of the following Stock Exchanges affiliated to the Council of Associated Stock Exchanges—

Aberdeen	Dundee	Liverpool
Belfast	Edinburgh	Manchester
Birmingham	Glasgow	Newcastle upon Tyne
Bradford	Greenock	Newport (Mon)
Bristol	Halifax	Nottingham
Cardiff	Huddersfield	Sheffield
Cork	Leeds	Swansea
Dublin		

Deduction of  
Dividend

132 The Buyer is entitled to deduct the dividend when paying for Securities on which the dividend has been declared and in respect of which the Transfer Books are closed at the date of delivery <sup>1</sup>

Dividends in  
Foreign  
Currency

133 In cases where dividends are declared payable in a foreign currency the Secretary of the Share and Loan Department shall fix a price for the dividend in Sterling money, which shall be posted in The Stock Exchange, and the dividend shall be accounted for at such price <sup>1</sup>

<sup>1</sup> *Resolution confirmed 21st December, 1931*

That the following Regulation shall until repealed govern the transaction of business in the Stock Exchange and shall form part of the Rules and Regulations of the Stock Exchange and shall take effect notwithstanding any of the existing Rules and Regulations—

#### REGULATION

##### RULES 132, 133, AND 140

Dividends which are settled under Rules 132 and 133, and dividends on "American" securities which are settled under Rule 140 shall be temporarily settled subject to recourse at a valuation to be fixed on the date of payment, such date and valuation to be fixed by the Secretary of the Share and Loan Department.

The Temporary settlement of dividends on "American" securities (i) paid in United States dollars shall be at the rate of \$4 to the £, (ii) paid in Canadian dollars shall be at the rate of \$5 to the £, but as regards all other securities the temporary settlement shall be at the par rate of exchange.

This Regulation shall also apply to dividends payable in Dominion or Colonial Pounds and in the case of such dividends the par rate of exchange shall be deemed to be £ per £.

# SECURITIES PASSING BY DELIVERY

134 (1) The Seller is responsible for the genuineness of the Securities delivered, and in case of his death, failure or retirement from The Stock Exchange, such responsibility shall attach to each Member in succession, through whose hands the Securities or the Scrip Ticket representing such Securities, shall have passed

Genuineness of Securities

(2) (a) Bonds to Bearer, Bearer Scrip, and Share Warrants to Bearer are recognized as being negotiable instruments

Negotiable Instruments

(b) In cases, however, where a Government or other issuer of any Security to Bearer, or the agents of such issuer, have declined for any reason peculiar to that Security as compared with other Securities of the same issue to meet its obligations thereunder or any of them the Buyer may submit the case to the Committee who may, if in their opinion the circumstances warrant such action, require the Security to which the disability attaches to be returned to the Seller and a similar Security not subject to such disability to be delivered in its place. The Committee may determine the point or date to which the trace back shall be carried

Failure to meet Obligations

(3) The deliverer of Securities on Scrip Tickets is required to apportion such Securities to each Ticket at the time of delivery, and the taker of such Securities, in order to secure his right under this Rule, shall keep such Tickets with the numbers of the Securities to which they were respectively apportioned, or, in the case of Settlement Department Tickets, the numbers of such Tickets

Apportionment to Tickets

135. (1) A Bond or Certificate is to be considered perfect, unless it be much torn or damaged, or a material part of the wording be obliterated. The Committee will not take cognizance of any complaint in respect of a Bond or Certificate alleged to have been delivered in a damaged condition, or deficient in or with irregular Coupons, should such Bond or Certificate be detained by the Buyer more than Eight days after the delivery, unless it can be proved that the Member passing it was aware of its being imperfect.

Damaged Bonds, etc

(2) A Member shall not be required to accept delivery of American Shares or Registered Bonds in names requiring legal or other documents to be attached in order to effect transfer

American Certificates Documents required Irregularity of Endorsement

(3) The Committee will not take cognizance of any complaint in respect of the irregularity in the endorsement of an American Share Certificate, should such certificate be detained by the Buyer more than Three months after delivery, unless it can be proved that the Member passing it was aware of the irregularity

136. (1) A Member shall not be required to accept the delivery of a Certificate of American Shares representing a larger number than—

Denomination Deliverable

100 Shares up to and including	\$5 each,
50   "                   "           "	\$25 each,
20   "                   "           "	\$50 each,
10   "                   "           "	of any other denomination, or
Shares of no par value,	

nor an American Bond of a larger amount than \$1,000



Smaller Certificates	(2) Smaller Certificates or Bonds must be of such denomination as to be deliverable in the above amounts
Scrip Tickets	137. (1) On the Ticket-day between One and Four o'clock, Scrip Tickets shall be passed at the Making-up price of the Contango-day
Time of Issue	(2) Scrip Tickets shall not be issued later than Three o'clock on the Ticket-day
Amounts	(3) Scrip Tickets must bear distinctive numbers and be for the following amounts, viz — £1,000 Stock, or multiples of £1,000, up to £5,000, or the equivalent in Foreign Currency 5 Shares, or multiples thereof, up to 100 Tickets for £500 Stock may be passed for bargains or balances of that amount. Smaller amounts must be settled without Tickets
Splitting.	(4) Scrip Tickets shall not be split, except in the Settlement Department
Endorsement	(5) A Member is required to endorse on the Scrip Ticket the name of the Member to whom it is passed
Time under Rule 106	(6) Sellers shall accept Scrip Tickets, but if a deliverer elect to settle with his immediate Buyer, under the provisions of Rule 106, he shall deliver his Securities before Half-past Twelve o'clock. Intermediaries on the trace are bound to pay their Sellers up to One o'clock
Release of Intermediary.	(7) The holder of a Scrip Ticket, who shall allow Two business days, Saturday excepted, including the Account Day, to elapse without delivering the Securities, releases his Buyer from any loss in consequence of the declaration of any Member as a Defaulter
Accrued Interest	138 Bargains in Bonds and Debentures include the accrued interest in the price, except in the case of British, Dominion and Colonial Treasury and Exchequer Bonds or Bills, Rupee Paper, Indian Railway Debentures, and certain Securities of a like character which are dealt in so that the accrued interest up to the day for which the Bargain is done is paid by the Buyer
Coupons	139 (1) Securities sold cum Coupon must be delivered with the Coupon unless they have been made ex Coupon before or on the date for the completion of the bargain
Compensation	(2) Except as provided above, should a Bond sold cum Coupon be delivered without the Coupon the seller must compensate the buyer by the payment of (a) In the case of Coupons payable only in London the value of the Coupon less Income Tax (b) In the case of Coupons payable abroad, or both in London and abroad, the market value of the Coupon on the date for which the bargain is done without deduction of Income Tax, in case of dispute the market value being fixed by the Secretary of the Share and Loan Department, provided always that no securities shall be a good delivery without the Coupon before they are made "ex"
Valuation. Dividends Payable Abroad	140 In the case of dividends payable abroad, or both in London and abroad, the Secretary of the Share and Loan Department shall fix the market value of the Dividend or Coupon in sterling money, which shall be posted in the Stock Exchange, and the dividend shall be accounted for at such valuation <sup>1</sup> 141 Should the Buyer of "American" Shares be unable to

<sup>1</sup> See Note at page 368, ante

obtain the dividend, to which he is entitled, direct from the Transferor or his Agent, the Deliverer shall be responsible to the Buyer for such dividend provided that not more than 11 clear days have elapsed between the day of delivery and that of the closing of the books of the Company

Dividends on  
"American"  
Shares

142 On the Account-day, all unsettled bargains shall be brought down and temporarily adjusted, at the Making-up price of the Contango-day

Temporary  
Adjustment  
of Accounts.

143 (1) A Member shall not be required to pay for Securities presented after a Quarter before Two o'clock On the Account-day the holder of a Scrip Ticket must deliver before One o'clock

Time for  
Payment

(2) The Buyer shall pay for such portion of Securities as may be delivered within the prescribed time.

Part Delivery

## BUYING-IN AND SELLING OUT

Official Department	144 Buying-in or Selling-out must be effected publicly by the officials of the Buying-in and Selling-out Department appointed by the Committee for General Purposes, who shall trace the transaction to the responsible Member and claim the difference thereon
Charges.	145 The charges for Buying-in and Selling-out shall be those authorized by Appendix 39 Full commission to be charged on the first attempt and half commission on every subsequent attempt
Suspension of Buying-in	146 The Committee may suspend the Buying-in of Securities, when circumstances appear to them to make such suspension desirable in the general interest The liability of intermediaries shall continue during such suspension, unless otherwise determined by the Committee.
When Securities may not be Bought-in	147 Securities shall not be bought-in while they are known to be out of the control of the Seller for the payment of calls, or the receipt of interest, dividends or bonus.
Buying-in Inscribed Stock	148 Inscribed Stock, not subject to an <i>ad valorem</i> Stamp Duty, bought for a specified day and not then delivered, may be bought-in without notice on the following day at Eleven o'clock, Saturday excepted, and the Member causing default shall pay any loss incurred
Buying-in Registered Securities	149 (1) If Securities deliverable by Deed of Transfer or Inscribed Stock subject to an <i>ad valorem</i> Stamp Duty are not delivered within Ten days, the issuer of the Ticket may buy-in the same against the Seller on the Tenth day after the Account-day, or on any subsequent day, Saturday excepted
Companies preparing their own Transfers	(2) In the case of Companies which prepare their own transfers, Securities may be bought-in on the Eleventh day after the earliest date on which a transfer can be procured, or on any subsequent day, Saturday excepted
Notice	(3) One hour's public notice of such Buying-in must be posted in The Stock Exchange, the notice to be posted not later than Half-past Twelve o'clock
Time	(4) Buying-in shall take place between Half-past One and Three o'clock
Name	(5) The name into which the Securities are to be transferred must be stated in the order to buy-in, if required by the Manager of the Buying-in and Selling-out Department
Liability	(6) The loss occasioned by such Buying-in shall be borne by the ultimate Seller, unless he can prove that there has been undue delay in the passing of the Ticket on the part of any Member who shall in that case be liable
Cash Bargains	(7) Securities bought for any day except the Account-day and not delivered by a Quarter before Two o'clock, Saturday excepted, may be bought-in on the following or any subsequent day, Saturday excepted, without notice, and any loss occasioned by such Buying-in shall be borne by the Seller
Further Buying-in	(8) Securities bought-in and not delivered by One o'clock on the following day, Saturday excepted, may be again bought-in for immediate delivery, Saturday excepted, without further notice, and any loss shall be paid by the Member causing such further Buying-in
	150 (1) The issuer of a Ticket who shall allow Two business

days from the Buying-in day to elapse without Buying-in or attempting to buy-in the Securities, shall release his Seller from all liability in respect of the non-delivery of the Securities, unless he shall have waived his right to buy-in at the request, or with the consent of his Seller, and the holder of the Ticket shall alone remain responsible to such issuer for the delivery of the Securities

Release of  
Inter-  
mediaries

(2) In the case of Companies which prepare their own transfers the intermediate Seller shall be released Thirteen clear days after the earliest day on which a transfer can be procured

Companies  
preparing  
their own  
Transfers

(3) The liability of issuers and holders of Tickets is not affected by the fact that intermediaries have been released by lapse of time

Liability

151 (1) Securities passing by delivery which have been bought for the Account-day, and are not delivered by a Quarter before Two o'clock, may be bought-in on the following, or any subsequent day, Saturday excepted, and any loss occasioned by such Buying-in shall be borne by the Seller

Buying-in  
Bearer  
Securities

(2) One hour's public notice of such Buying-in must be posted in The Stock Exchange, the notice to be posted not later than Half-past Twelve o'clock

With  
Notice

(3) If such Securities are bought for any day except the Account-day and not delivered by a Quarter before Two o'clock they may be bought in on the same, or any subsequent day, Saturday excepted, without notice, and any loss occasioned by such Buying-in shall be borne by the Seller

Without  
Notice

(4) Buying-in shall take place between Half-past One and Three o'clock

Time

(5) The loss occasioned by such Buying-in shall be borne by the Member who shall not have delivered the Securities by a Quarter before Two o'clock on the previous day, Saturday excepted

Liability

(6) Securities bought-in, and not delivered by One o'clock on the following day, Saturday excepted, may be again bought-in for immediate delivery, Saturday excepted, without further notice, and any loss shall be paid by the Member causing such further Buying-in

Further  
Buying in.

152 (1) The issuer of a Scrip Ticket who shall allow Two business days, Saturday excepted, to elapse without buying-in or attempting to buy-in Securities passing by delivery shall release his Seller from all liability in respect of the non-delivery of the Securities, unless he shall have waived his right to buy-in at the request or with the consent of his Seller, and the holder of the Ticket shall alone remain responsible to such issuer for the delivery of the Securities

Release of  
Intermediaries

(2) The liability of issuers and holders of Scrip Tickets is not affected by the fact that intermediaries have been released by lapse of time

153 (1) In case the Official shall not succeed in executing an order to buy-in, the notice of such Buying-in shall remain on the General Notice Board, and the Official shall as long as the order remains in force daily renew the attempt to buy-in, Saturday excepted, and when so instructed shall bid for the stock

Renewed  
Attempts

(2) A holder of a ticket shall before Eleven o'clock on the buying-in day, notify the payer that he holds it

Notification

154 (1) The Seller of Inscribed Stock for a specified day, who shall not receive a Ticket by Half-past Twelve o'clock, or Half-past Eleven o'clock on Saturday, may sell out against the Buyer

Selling-out  
Inscribed  
Stock

(2) If such Ticket shall not have been regularly issued before Eleven o'clock, the issuer thereof shall be responsible for any loss occasioned by the Selling-out Should the Ticket have been

Liability

Selling-out  
Registered  
Securities

regularly put in circulation, the holder at Half-past Twelve o'clock, or Half-past Eleven o'clock on Saturday shall be liable

155 (1) The deliverer of Securities deliverable by deed of Transfer, who shall not receive a Ticket by Half-past Two o'clock on the Intermediate-day, may sell out such Securities up to Three o'clock, or Twelve o'clock on Saturday, on that day or any subsequent day

Specified  
Day

(2) In the case of a Bargain for a specified date the deliverer who shall not receive a Ticket by Half-past Two o'clock (or Half-past Eleven o'clock on Saturdays) on the day before such specified date may sell out the Securities up to Three o'clock (or Twelve o'clock on Saturdays) on that day or any subsequent day

Notice to  
Settlement  
Department

(3) If the Security be one of those undertaken by the Settlement Department, written notice stating from whom a Ticket is required must be given to the Department at least One hour before such Selling-out, and in no case shall such Securities be sold out before Twelve o'clock, or Half-past Eleven o'clock on Saturdays

Liability  
Late Ticket

(4) If a Ticket shall not have been regularly issued before Three o'clock on the Ticket-day the issuer thereof shall be responsible for any loss occasioned by Selling-out

Liability

(5) Should a Ticket have been regularly put into circulation, the holder thereof at the following times shall be responsible for Selling-out unless he can prove undue delay in the passing of the Ticket—

Selling out on  
Intermediate  
day

(a) For Selling-out on the Intermediate-day—the holder of the Ticket at Two o'clock on that day

(b) For Selling-out on the Account-day—

Account day  
Settlement  
Department  
Securities

(i) Of Securities which are subject to arrangement by the Settlement Department the holder of the Ticket at Three o'clock on the Intermediate-day, unless such Ticket was in the Settlement Department at Three o'clock, in which case the holder at Five o'clock shall be liable

Other  
Securities

(ii) Of Securities not subject to arrangement by the Settlement Department, the holder of the Ticket at Twelve o'clock on the Intermediate-day

Selling-out  
After  
Account-day

(c) For Selling-out on any day after the Account-day—

The holder of the Ticket at Three o'clock on the previous day, or Twelve o'clock on Saturday

Release of  
Inter-  
mediaries

156 Should the deliverer of securities deliverable by deed of Transfer allow Two business days from Three o'clock on the Intermediate-day to elapse without availing himself of his right to sell out, his Buyer shall be relieved from all loss in cases where the Ticket has not been passed in consequence of the declaration of any Member as a Defaulter. If a Seller does not deliver securities within Two business days, Saturday excepted, from the Buying-in day the intermediate Buyer from whom he received the Ticket shall be released, and the issuer thereof shall alone remain responsible for the payment of the purchase-money

Tickets for  
Sold-out  
Securities

157 When Securities are sold out, if a Ticket be not given within half an hour after the time of sale, the transfer may be made into the name of the Buyer.

Selling out  
Bearer  
Securities

158 A Member, who has sold Securities passing by delivery for a specified day, may sell out the same on that day, Saturday excepted, if the Buyer is not prepared to pay for them by a Quarter before Two o'clock, and the Buyer shall be liable for any loss incurred

# NEW ISSUES AND OFFICIAL QUOTATIONS

159 (1) Dealings will not be permitted in any New Issue until allowed by the Committee unless excepted from this Rule under Appendix 34*d* or 34*e* (*vide* Appendix 34)

Committee's  
Permission

(2) Dealing in Results is not allowed.

Dealing in  
"Results"  
Prohibited

(3) The decisions of the Committee regarding—

Committee's  
Decisions

(i) Rejections of applications for Permission to Deal,

(ii) Withdrawal or suspension of Permission to Deal,

(iii) Withdrawal or suspension of Permission to Record Bargains in accordance with Clause (4) of this Rule and Clause (3) of Rule 164

will be posted in the House and, when ordered by the Committee, communicated to the Exchange Telegraph Company for announcement on the tape

To be Posted

(4) In addition to the powers contained in Rule 164 (2) and (3) the Committee may suspend the record but order that bargains be marked or suspend or withdraw Permission to Deal in the case of a Company which fails to publish a Statutory or Annual Report within the prescribed period or in the case of serious default by underwriters or sub-underwriters in meeting their commitments

Suspension  
of Record  
and/or  
Permission to  
Deal, etc

160 Deleted 23rd May, 1927

161 Deleted 26th July, 1926

162 (1) The Committee may order the Quotation in the Official List of any security of sufficient magnitude and importance and in which there is sufficient public interest

Official  
Quotations

(2) Applications for Quotation must be made to the Secretary of the Share and Loan Department and must comply with such conditions and requirements as may be ordered from time to time by the Committee and as laid down in Appendix 35, except in cases where the Committee may determine to waive one or more of such conditions or requirements

Applications

Conditions or  
Requirements  
may be  
Waived.

(3) Three days' public notice must be given of every application

Notice

(4) A Broker, a Member of The Stock Exchange, must be authorized to give the Committee full information as to the Security and to furnish them with all particulars they may require

Broker

163 Deleted 26th July, 1926

## OFFICIAL LIST AND MARKING OF BARGAINS

- Official List 164 (1) A List of Securities admitted to Quotation shall be published under the authority of the Committee
- Record (2) There shall also be published under the authority of the Committee a Supplementary List of Securities not Officially Quoted In the case of a Company, no part of whose Share or Loan Capital is already dealt in, the title of the Company shall be inserted and remain in italics for 18 months, unless otherwise ordered by the Committee The Committee may order that the bargains in certain securities be marked but not recorded
- Removal from Record (3) A Security may be removed from the record in either List on the authority of the Chairman, Deputy-Chairman or two Members of the Sub-Committee on New Issues and Official Quotations Any action taken under the authority conferred by this Clause shall be reported to the Committee at the first available opportunity
- Unauthorized Lists. (4) No list or record shall be published and sold by a Member without the sanction of the Committee
- Time for Marking Bargains 165 Bargains may be marked between Half-past Ten and Half-past Three o'clock (Half-past Eleven o'clock on Saturdays) \*
- Authority to Expunge 166 A Mark shall not be expunged from the Official List or Supplementary List without the authority of the Chairman, Deputy-Chairman, or Two Members of the Committee
- Signs 167 The following Bargains shall be marked with distinguishing signs—  
 † Bargains at special prices.  
 △ Bargains done with or between Non-Members  
 Φ Bargains done during unofficial hours or on the previous day
- Bargains Omitted to be Marked 168 Bargains should be marked in the order in which they are made, but the Clerks of the House may, with the concurrence of a Member of the Committee, mark omitted bargains in the order in which they occurred, upon an application signed by the Buyer and the Seller stating the amount, the time when and the price at which such bargains were made, and such application shall be reported to the Committee at their next meeting
- Complaints Marks 169 (1) Complaints as to Marks may be lodged with the Clerks of the House at any time
- Objections—Quotations (2) Objections to Quotations in the List must be lodged with the Clerks of the House not later than Fifteen minutes before the time fixed for the closing of the House
- Procedure (3) Complaints and objections will in the first instance be considered by the Chairman, the Deputy-Chairman or two Members of the Committee

# FAILURES

170 (1) Two Members shall be appointed annually by the Committee, to act as Official Assignee and Deputy Official Assignee respectively, hereinafter called the Official Assignees, whose duty it shall be to obtain from a Defaulter his original books of account, and a statement of the sums owing to and by him, to attend Meetings of creditors and to summon the Defaulter before such Meetings, to enter into a strict examination of every account, to investigate and report to the Committee forthwith any bargains found to have been effected at unfair prices, and to manage the estate in conformity with the Rules, Regulations and usages of The Stock Exchange

Official Assignees

(2) Each Official Assignee shall find security amounting to £1,000 from Two or more Members of The Stock Exchange In the event of any default or misappropriation by any Assignee of funds or property entrusted to his care, or of any other act of dishonesty on his part, each of his Sureties shall pay, under direction of the Committee, such sum as he shall have guaranteed

Security

171 (1) A Member unable to fulfil his engagements shall be publicly declared a Defaulter by direction of the Chairman, Deputy-Chairman or any Two Members of the Committee, and thereby ceases to be a Member

Declaration of Defaulters

(2) The Request for such declaration shall be handed to the Secretary not later than a Quarter to Three o'clock, or a Quarter before Twelve o'clock on Saturday, and the declaration shall be forthwith announced to The Stock Exchange A Declaration shall not be announced before Half-past Ten o'clock

Time

(3) The Committee may order a Member who fails to meet an obligation to a Member or non-Member arising out of a Stock Exchange transaction to be declared a Defaulter

By Order of the Committee

172 A Member who has been declared a Defaulter shall forthwith execute and deliver to the Official Assignee a Deed of Arrangement in the form of Appendix 37.

Deed of Assignment

173 A Member who may fail to pay the fees due to the Trustees and Managers, or who may have a Receiving Order in Bankruptcy made against him or be adjudicated a Bankrupt or who may be proved to be insolvent although he may not be at the same time a Defaulter in The Stock Exchange, shall cease to be a Member upon resolution of the Committee to that effect

Insolvency

174. When a Member shall give private intimation to his creditors of his inability to fulfil his engagements, the creditors shall not make any compromise with such Defaulter, but shall immediately communicate with the Chairman, Deputy-Chairman or Two Members of the Committee, in order that the Member in default may be immediately declared, and in case the Committee shall obtain knowledge of any private failure, the name of the Defaulter shall be publicly declared

Private Failures

175 A Member conniving at a private failure, by accepting less than the full amount of his debt, shall be liable to refund any money or Securities received from a Defaulter, provided such Defaulter be declared within Two years from the time of such compromise, the property so refunded being applied to liquidate the claims of the subsequent creditors Any arrangement for settlement of claims, in lieu of *bona fide* money payment

Compromises



on the day when such claims become due, shall be considered as a compromise, and subject to the provisions of this rule

**Regulations** 176 (1) In the event of a default the Regulations in Appendix 36 shall apply

**Fixing Prices on Default** (2) In every case of failure, the Official Assignees shall publicly fix the prices current in the Market immediately before the declaration, at which prices all Members having accounts open with the Defaulter shall close their transactions by buying of or selling to him such Securities as he may have contracted to take or deliver, the differences arising from the Defaulter's transactions being paid to, or claimed from the Official Assignees

**Valuation of Options** (3) Unexpired options shall be similarly closed at a Market valuation

**Objections** (4) In the event of a dispute as to the prices or valuations they shall be fixed by Two Members of the Committee Any objection must be lodged with the Official Assignees in writing within Two business days of the time when the list was posted in The Stock Exchange

**Charges** 177 The Scale of Charges to be paid to the Official Assignees' Department shall be as follows—

From £1 to £5,000 collected 5 per cent

From £5,000 collected 1½ per cent

Sums received from the Estate of another Defaulter upon the same Settlement and redistribution, shall be charged with half the above percentage

**Collection and Distribution of Assets** 178 The Official Assignees shall collect and pay the assets into such Bank and in such names as the Committee may from time to time direct The net proceeds of the collections after payment thereof of all legal and other expenses (including in respect of the office and administrative expenses of the Official Assignees a poundage or percentage on collections at a rate to be approved from time to time by the Committee) and any allowances or payments to the defaulter or his clerical staff which may be authorized by the Creditors in General Meeting or by any Committee of Creditors appointed by a General Meeting, shall be distributed as soon as possible amongst the Creditors in accordance with these Rules up to 20s in the £ on the admitted claims but without interest Any surplus which may remain after such payment has been made, should there be any, shall be at the disposal of and shall be returned to the defaulter

**Surplus** 179 Creditors for differences shall have a prior claim on all differences received by, or due to a Defaulter's estate

**Difference Creditors** 180 A creditor receiving, under any circumstances, a larger proportion of differences on a Defaulter's estate than that to which each of the creditors is entitled, shall refund such portion as shall reduce his dividend to an equality with the others

**Equality between Difference Creditors** A Member completing a bargain with the principal of a Defaulter shall immediately notify the fact to the Official Assignees.

**When Payments by Defaulters to be Refunded** 181 A Member who shall have received a difference on an account, prior to the regular day for settling the same, or who shall have received a consideration for any prospective advantage, whether by a direct payment of money, or by the purchase or sale of Securities at a price either above or below the market price at the time the bargain was contracted, or by any other means, prior to the day for settling the transaction for which the consideration was received, shall, in case of the failure of the Member from whom he received such difference or consideration, refund the same for the general benefit of the creditors; and any

Member who shall have, under the circumstances above stated, paid or given such difference or consideration, shall again pay the same to the creditors, so that, in each case, all persons may stand in the same situation with respect to the creditors, as if no such prior settlement or other arrangement had taken place

182 A claim which does not arise from a Stock Exchange transaction cannot be proved against a Defaulter's estate

Claims not on  
Stock  
Exchange  
Transactions  
Claims not  
Admitted

183 (1) The following claims will not be allowed to rank against a Defaulter's estate until all other claims have been paid in full, but assets arising from such transactions shall be collected and distributed among the creditors—

(i) Claims arising from Bargains or Options for a period beyond the Third ensuing Account-day

(ii) Claims arising from differences which have been allowed to remain unpaid for more than Two business days, Saturday excepted, beyond the day on which they became due

(2) Differences overdue and paid previous to the day of default are not to be refunded

Overdue  
Differences.

184 Members not receiving due payment for Securities delivered on the day of default, are entitled, so far as regards the value thereof, at the average price on the day of delivery, to be paid *pro rata*, and preferentially, out of assets resulting in any manner from such Securities, or derived from the Defaulter's own resources, and, should these prove insufficient, they shall, as to the balance of such claims, participate with other creditors in any surety-money of the Defaulter

Claims for  
Securities  
Delivered  
and not  
Paid for

185 In the case of a loan of money made upon Securities, the lender shall realize his Securities within Three clear days, unless the creditors consent to a longer delay, or he shall take them at a price to be fixed by the Official Assignees, with appeal to any Two Members of the Committee Should the Security be insufficient, the difference may be proved against the Defaulter's estate

Loan on  
Security

186 A loan without Security shall not be admitted as a claim on the differences of a Defaulter's estate, nor shall any such loan, when of longer duration than Two business days, be admitted as a claim on any other of his assets; and should any unsecured creditor receive payment of his loan from a Member on the day of his default, such payment being made out of assets not belonging to the Defaulter previously to that day, he shall refund the amount so received for the benefit of the Defaulter's estate

Loan without  
Security

187 A Non-Member shall be allowed to participate in a Defaulter's estate, provided his claim be admitted by the creditors, or, in case of dispute, by the Committee, and a person whose claim is so admitted, may be represented at the meeting of creditors by any Member whom he may appoint

Claims of  
Non-Members

188 A Member, being a creditor upon a Defaulter's estate, shall not sell, assign or pledge his claim on such estate to a Non-Member without the concurrence of the Committee, and such assignment shall be immediately communicated to the Official Assignees

Assignment  
of Claims

189 A Member shall not attempt to enforce by law a claim arising out of a Stock Exchange transaction against a Defaulter, or the Principal of a Defaulter, without the consent of the creditors of the Defaulter or of the Committee.

Legal  
Proceedings  
against a  
Defaulter

Business  
for a  
Defaulter

190 (1) A Member may, with the consent of the Creditors and the sanction of the Committee, and not otherwise, carry on business for the benefit of a Defaulter in accordance with the Regulations contained in Appendix 38

With a  
Defaulter  
Prohibited  
For or with  
Insolvent,  
etc

(2) A Member shall not deal with a Defaulter for his own account before his re-admission to The Stock Exchange

(3) A Member may with the sanction of the Committee, and not otherwise, carry on business for or with a person who has ceased to be a Member under Rules 42, 45, or 173, or who after ceasing to be a Member from any cause becomes a bankrupt

Defaulters'  
Balances

191. (1) Once in every month, the Official Assignees shall lay before the Committee an account of the balances in their hands belonging to Defaulters' estates, and the Committee shall order such balances as they think fit to be paid over to the account of the Trustees of The Stock Exchange Benevolent Fund, subject to recall by the Committee for distribution amongst creditors, or for payments by or to the Official Assignees which have been authorized by the Committee

Yearly  
Statement.

(2) A statement of all sums so paid over, and of the amount remaining in the hands of the Trustees of The Stock Exchange Benevolent Fund on the 31st of December in every year, shall be furnished by the Official Assignees and deposited in the Committee Room, for the inspection of the Members of The Stock Exchange

Return of  
Defaulters

(3) On the first of February in each year the Official Assignees shall lay before the Committee the names of the Defaulters who have been re-admitted as Members or Clerks but have not paid 20s in the £, with particulars as to the date of re-admission, the original liabilities, the dividends paid and the date and amount of the last payment.

Return of  
Dividends.

(4) On the first of March in each year, the Official Assignees shall lay before the Committee a statement of all dividends paid during the last year on each Defaulter's estate.

# COMMISSIONS

192 The Minimum Scale of Commission, except as provided in Rule 203, is laid down in Appendix 39, but is not compulsory in the case of Underwriting or the placing of New Issues. Nor shall it apply to Continuations provided that a Broker shall charge or allow in respect of Continuation business a rate not more favourable to his Principal than that actually paid or received by him in the market, or if the Continuation is effected wholly or partially by the employment of his own resources a rate which shall be fair and reasonable having regard to the market conditions of the day.

Minimum  
Scale of  
Commission

193 (1) A Broker shall render to a Non-Member a contract note in respect of every bargain done for such Non-Member's Account, stating the price at which the bargain has been done. Subject to the provisions of Rules 88 and 90 such contract note shall contain a charge for Commission at a rate not less than the Scale as laid down in Appendix 39, or as modified by the provisions of Rules 192, 195, 196 (1), 197, 197a, 197b, or 203.

Contracts to  
be rendered  
and to set  
out Price and  
Commission

(2) Subject to Rules 194, 203 (3) and 204 the Rules under the heading of "Commissions" do not lay down any restrictions as to dealings between Members.

Dealings  
between  
Members

(3) Except for business done under Rule 199 a Broker may render a net contract note provided Commission in accordance with Clause (1) of this Rule is charged and provided such contract note states that the Commission is allowed for in the price.

Net  
Contracts.

194 A Broker may not act as a Principal for the purpose of evading these Rules, or adopt any other procedure for a like purpose, nor may he commute his Commission for a fixed payment or salary unless in each year he be specially authorized so to do by the Committee, nor may he divide profits or Commission with a Non-Member except as authorized by Rules 199, 200 and 201.

Commission  
Rules not to  
be Evaded

195 (1) A Broker may at his discretion charge only one Commission for buying and selling the same security for the same Principal for the same Account, or for the Account immediately following or for cash during the same account or during the account immediately following.

Closing  
Transactions

(2) Neither the reduced Commission allowed by Rule 197 nor the concession allowed by Rule 196 may be applied to bargains done under this Rule.

196 (1) On a change of investments for the same Principal during the same Account or the Account immediately following, a Broker may at his discretion if the Securities have not been continued, charge Commission at a rate not less than the scale as laid down in Appendix 39 on one transaction and a reduced commission of not less than half that rate on the other. The full rate must be charged on the side which yields the larger amount.

Change of  
Investments

(2) The concession allowed by Rule 195 may not be applied to bargains done under this Rule.

(3) The provisions of Rule 197 may not be applied when Clause 1 of this Rule is used.

197 (1) On any transaction in which the consideration money is £2,500 or under, the full Commission laid down under Appendix 39 must be charged. In the case of a transaction in which the consideration money exceeds £2,500 full Commission

Transaction  
up to £2,500

Transaction  
over £2,500

must be charged up to that amount, but a Broker may, at his discretion (when in his opinion the volume of his Principal's business justifies it), charge a reduced Commission on the balance of the transaction, provided that in no case shall such reduced Commission be less than one-half of the Minimum Scale laid down in Appendix 39. The provisions of Rule 196 (1) may not be applied to this Rule.

Commission  
may be  
Reduced in  
Certain  
Cases

(2) In the case of a transaction in not less than £50,000 Stock of a Security of or Guaranteed by the British or Indian Government having a currency of not more than Ten years, a Broker may at his discretion charge a reduced Commission on the entire amount, provided that in no case shall such reduced Commission be less than one-half of the minimum scale laid down in Appendix 39. The provisions of Rule 196 (1) may not be applied to this Rule.

When  
Inapplicable

(3) The reduced scales allowed by this Rule are not applicable when a Broker charges Commission under Rules 195, 196 (1) or Clauses (1), (2) and (4) of Rule 203, or when Commission is shared with an agent under Rule 199.

Adjustment  
of  
Commission.

(4) In the case of an order to invest or realize an amount of money in or from several Securities, each bargain, the consideration for which does not exceed £2,500, must bear the full Commission, but should an order in one Stock, if above £2,500 consideration, be only partially executed, the Commission may be adjusted on completion of the order.

Transactions  
over £50,000  
5% War Loan  
1929-47

197a (1) In the case of a transaction for the same Principal in not less than £50,000 5% War Loan, 1929-47 Inscribed, Registered or Bearer, a Broker may at his discretion charge a reduced Commission of  $\frac{1}{8}$  per cent on the entire amount.

This reduced Commission may be shared with an Agent provided the share actually retained by the Broker is not less than  $\frac{1}{8}$  per cent.

(2) In the case of a transaction for the same Principal in not less than £50,000 5% War Loan 1929-47 Inscribed, Registered or Bearer, a Broker may at his discretion charge to his Principal or Country Broker as defined by Rule 203 (1) a reduced Commission of  $\frac{1}{8}$  per cent on the entire amount.

This reduced Commission shall not be shared with anyone except a Remisier or a Clerk in the Broker's own exclusive employment.

(3) The above Commission rates of  $\frac{1}{8}$  per cent and  $\frac{1}{8}$  per cent are definite minimum rates to be charged on each purchase and each sale and may not be reduced under any Rule. The rates may only be applied in cases of orders of not less than £50,000 Stock, they may not be applied in the case of transactions for the same Principal in less than £50,000 Stock made subsequent to the original transaction in that amount.

Closing  
Transactions  
over £50,000

197b (1) On Stocks included in Section A of Appendix 39, in amounts of not less than £50,000 Stock, a Broker may at his discretion charge only one Commission at not less than the rate laid down in Appendix 39 on the first £2,500 money and at not less than half that rate on the balance for buying and selling the same amount of the same Stock for the same Principal during a maximum period of twenty-eight days.

This reduced Commission shall not be shared with anyone except a Remisier or a Clerk in the Broker's own exclusive employment.

(2) The concession allowed by this Rule can only be applied

in cases of orders of not less than £50,000 Stock; the concession may not be applied in the case of transactions for the same Principal in less than £50,000 Stock made subsequent to the original transaction in that amount.

198 A Broker shall, subject to the provisions of Rules 88, 90 and 204 (4), charge Commission at not less than the Minimum Scale as laid down in Appendix 39 without modification to any Stock and Share Broker or Dealer in Great Britain and Northern Ireland and the Irish Free State, whether carrying on business in the form of a limited Company or otherwise, who advertises in the public Press for Stock Exchange business or issues Circulars respecting such business to other than his own Principals, or who is a Member of any other institution within the London Postal Area, where dealings in Stocks or Shares are carried on, and no allowance or rebate in respect of such Commission shall be made to such Broker or Dealer or any other person, but such restriction shall not apply to a Broker who remunerates a clerk in his own exclusive employment with a share of the Commission charged to such outside Broker or Dealer

Sharing  
Commission  
or giving  
rebates to  
outside  
Brokers  
Forbidden

199 (1) A Broker may share his Commission with an Agent provided that (except in the case where such Agent is his Remisier or a Clerk in his own employment) the share of the Commission actually retained by him is not less than one-half of the Minimum Scale as laid down in Appendix 39, except as provided in Clause (6) of this Rule, and in Rule 195

Commission  
may be  
shared with  
an agent on  
certain  
Conditions

(2) A Broker may not share his Commission with an Agent if the Agent's share is divided with or allowed to his Principal

Division with  
Principal  
Prohibited

(3) A Broker may not share with an Agent the Commission charged on the Agent's personal business. A Broker may not share with an Agent any of the Commission under this Rule on business done for a Principal for whom he deals under the provisions of Rule 197

When  
inapplicable

(4) A Broker may not share his Commission with an Agent who advertises for Stock Exchange business in the Public Press in Great Britain, Northern Ireland, or the Irish Free State. A Broker may not share his Commission with an Agent who issues circulars in Great Britain, Northern Ireland or the Irish Free State respecting Stock Exchange business to other than his own Principals

Advertising  
Prohibited

(5) A Broker who shares Commission with an Agent shall render a Contract Note naming the Agent and stating that the Commission charged is shared with such Agent under the provision of this Rule. Such Contract Note must not be rendered "net," and must show Commission at not less than the scale laid down in Appendix 39

Contract  
Notes  
Agents

(6) In the case of a change of investments made under the conditions of Clause (1) of Rule 196 a Broker may share Commission with an Agent on both sale and purchase, provided that (except where such Agent is the Broker's Remisier or a Clerk in his own employment) the share of Commission actually retained by the Broker is not less than one-half of the Minimum Scale laid down in Appendix 39 on the side yielding the larger amount, and on the other side not less than one-half of the reduced Commission allowed by Rule 196, Clause (1)

Change of  
Investments.

Commission

Northern Ireland and the Irish Free State whose name is registered with the Committee in accordance with Appendix 40 and to remunerate such Remisier with a share not exceeding one-half of the Commission charged to the Principal he introduces whether such Commission be at the Minimum Scale as laid down in Appendix 39 or as modified by the provisions of Rules 195, 196 (1), 197, 197*a*, or 197*b*

Non Member  
Arbitrageurs

200*a* The Committee may keep a Register of Non-Member Arbitrageurs, and the Committee may determine the qualifications necessary for entry on such Register, how applications for registration shall be made and the conditions upon which the same will be accepted, provided that no registration shall hold good beyond the last day of January in the year following that in which the entry in the Register was made

A Broker doing business for any Arbitrageur whose name appears on the said Register may charge not less than one-half the minimum scale of Commission as laid down in Appendix 39 on all transactions stated by such registered Arbitrageur to represent arbitrage business undertaken for the personal account of such Arbitrageur and not being directly or indirectly business transacted by the registered Arbitrageur as agent for any third party Where Commission is charged under this Rule at less than the full scale as laid down in Appendix 39, no other concession or privilege shall be allowed to the registered Arbitrageur in respect of that business under Rules 195, 196, 197, 197*a*, 197*b*, 199, 200, 201, 203, or any other Rule or usage whatsoever

Commission  
may be  
shared with  
a Clerk

201 (1) A Broker may remunerate a Clerk in his own exclusive employment with a share not exceeding one-half of the Commission charged to the Principal he introduces whether such Commission be at the Minimum Scale as laid down in Appendix 39 or as modified by the provisions of Rules 195, 196 (1), 197, 197*a*, or 197*b*, provided that such remuneration is not shared by the Clerk with or allowed to his Principal

(2) Brokers will be held responsible that Clerks remunerated with a Share of Commission under this or any other Rule, make no allowance or return of such Commission, directly or indirectly, to the Principal or Agent they introduce or to any other person

202 A Broker shall not share Commission with a Jobber or a Clerk to a Jobber

Special  
Commission  
for Country  
Brokers

203 (1) On any transaction for a Member of any Associated Stock Exchange in Great Britain and Northern Ireland and the Irish Free State, or a Stock Broker whose name is included in the "List of Stock Brokers in Great Britain and Northern Ireland kept by the Commissioners of Inland Revenue in pursuance of Section 77 (3) of the Finance (1909-10) Act, 1910," and who does not carry on business within the London Postal Area, such Broker not being excluded by the provisions of Rule 198, a Broker may at his discretion charge Commission at a rate not less than the scale laid down in Clause (4) of this Rule

Minimum  
Commission

(2) The Commission laid down by this Rule shall be the minimum Commission to be charged on all business coming to The Stock Exchange from a Member of any Associated Stock Exchange or Country Broker, as defined in Clause (1) of this Rule, except that a Broker may apply to such business the provisions of Rules 195, 196, or 197*a* Such Commission shall not be shared with any one except a Clerk in the Broker's own

exclusive employment Such Clerk shall not under any circumstances either directly or indirectly divide or share his proportion of such Commission with or allow the same to such Country Broker

Closing Transactions.

(3) A Broker shall not act as a Principal or send an order to a Member of an Associated Stock Exchange or country Broker for the purpose of evading the minimum Commission on such business, nor shall he adopt any other procedure for a like purpose Any evasion will be treated as a breach not only of this Rule but also of Rule 87 which prohibits shunting

Evasions.

(4) On transactions for Brokers as defined in Clause (1) of this Rule a Broker may at his discretion charge a reduced scale Commission at the rate of not less than one-half of the rates laid down in Appendix 39, and further he may charge the following exceptional reduced rates, viz —

Scale

Registered Stocks

Price £ 50 or under	$\frac{1}{16}\%$ on Stock
Over £ 50 to £100	$\frac{3}{8}\%$ " "
" £100 to £150	$\frac{3}{16}\%$ " "
" £150 to £200	$\frac{1}{4}\%$ " "
With $\frac{1}{16}\%$ rise for every £50 in price	

The provision of Rule 196 (1) may not be applied when the exceptional reduced rates allowed by this Rule are charged

204 For the purposes of administering the Commission Rules

(1) A Broker, when transacting business between a Jobber and a Member of the Public, shall be considered as acting as the Agent of the Non-Member

Business between Jobber and Public.

(2) The remuneration of a Broker when transacting business between a Jobber and a Country Broker who is entitled to the privileges of Rule 203, must in no case be less than the minimum rate laid down in Rule 203

Between Jobber and Country Broker

(3) A Broker, when transacting business between a Jobber and an outside Broker or Dealer who is excluded by the provisions of Rule 198, must always charge the latter with full Commission as laid down in Appendix 39.

Between Jobber and person excluded by Rule 198

(4) Subject to the provisions of Rule 90, a Broker, when transacting business between a Country Broker who is entitled to the privileges of Rule 203 and an outside Broker or Dealer who is excluded by the provisions of Rule 198, must charge the full Commission as laid down in Appendix 39 to the latter and none to the former

Between Country Broker and person excluded by Rule 198





# APPENDIX

## RE-ELECTIONS, ADMISSIONS, AND RE-ADMISSIONS

### 1. Form of Application for Re-election—

(Rule 23)

*To the Secretary to the Committee for General Purposes.*

SIR,

Please acquaint the Committee for General Purposes, that I am desirous of being re-elected a Member of The Stock Exchange, for the year commencing on the 25th of March, 19 , upon the terms of, and under and subject in all respects to the Rules and Regulations of The Stock Exchange, which now are, or hereafter may be for the time being in force

My Residence is

My Office Address is

My Bankers are

My Telephone Number is

\*My Stand Number is

I am engaged in Partnership with

†Trading as

†I propose to act as a Broker

†I propose to act as a Broker's Clerk

†I propose to act as a Jobber

†I propose to act as a Jobber's Clerk

I am not engaged in active Business

} Strike out  
the lines  
which do not  
apply

I am not engaged as Principal or Clerk in any business other than that of The Stock Exchange, nor is my wife engaged in business, nor am I a Member of, or Subscriber to, any other Institution in which dealings in Stocks or Shares are carried on.

‡The under-named will continue to act as Clerk .

Name of the Clerk §	Here state whether the Clerk is authorized or not to transact business or admitted to the Settling Room only, and if he is a Member, it is to be so stated

I am, Sir, yours faithfully,

(Signature in full)

The Subscription is to be paid to the credit of the Managers, within Twenty-one days from the 25th of March

§ Rule 58 (1) A Member desirous of obtaining the admission of an Authorized, Unauthorized or Settling Room Clerk shall apply for the permission of the Committee on one of the Forms 18, 19, or 20 in the Appendix.

(2) A Member who has any arrangement for the sharing of Commission with another Member shall apply for his admission as a Clerk on Form 18 or 19 in the Appendix.

(3) A Member who employs another Member as his Office Clerk shall apply for his admission as a Clerk on Form 19 in the Appendix.

Rule 70 A Member parting with a Clerk or withdrawing his authorization, shall give notice in writing to the Secretary, who shall forthwith communicate the same to The Stock Exchange in the usual manner.

\* Please state here at which Stand you wish to be called and have your letters and telegrams delivered

† The names of all Members who return themselves as Brokers, or Clerks to Brokers, will be inserted in the published "Lists of Brokers who are Members of the Stock Exchange"

‡ All Members of a firm should send in their forms together if possible.

§ In the case of a Partnership only one member of the firm need make the return as to Clerks

## 2 Re-election under Rule 24 (2) or 25 (3)

*To the Secretary to the Committee for General Purposes*

SIR,

Please acquaint the Committee for General Purposes that I am desirous of being re-elected a Member of The Stock Exchange, for the year commencing on the 25th of March, 19 , upon the terms of, and under and subject in all respects to the Rules and Regulations of The Stock Exchange, which now are, or hereafter may be for the time being in force \* I am aware that I must acquire Stock Exchange Share before exercising any of the privileges of Membership

My Residence is

My Office is

My Bankers are

† I propose to act as a Broker	} Strike out the lines which do not apply
I propose to act as a Broker's Clerk	
I propose to act as a Jobber	
I propose to act as a Jobber's Clerk	
I do not propose to engage in active Business	

I am not engaged as Principal or Clerk in any business other than that of The Stock Exchange, nor is my wife engaged in business, nor am I a Member of, or Subscriber to, any other Institution in which dealings in Stocks or Shares are carried on

I am, Sir, yours faithfully,

*(Signature in full)*

We recommend Mr , who has not exercised his right of nomination or become ineligible under Rule 26, as a fit Person to be re-elected a Member of The Stock Exchange , and in case he shall be publicly declared a Defaulter by , we each of us hereby engage to pay to his creditors, upon application, the sum of Hundred Pounds to be applied in discharge of his Debts in The Stock Exchange

\* \* \* *(Signatures)* {

The Recommenders are required to have such personal knowledge of the applicant and of his past and present circumstances, as shall satisfy the Committee as to his eligibility

The Subscription is to be paid to the credit of the Managers

\* \* \* The Recommenders must attend, together with the person recommended, at such time as the Committee may require

\* To be struck out by applicants who from the date of their admission do not require a Share Qualification or those who may not have parted with their Qualification Share or Shares

† The names of all Members who return themselves as Brokers, or Clerks to Brokers, will be inserted in the published "Lists of Brokers who are Members of The Stock Exchange"

## 3 Re-election under Rule 25 (1)—

*To the Secretary to the Committee for General Purposes*

SIR,

Please acquaint the Committee for General Purposes that I am desirous of being re-elected a Member of The Stock Exchange, for the year commencing on the 25th of March, 19 , upon the terms of, and under and subject in all respects to the Rules and Regulations of The Stock Exchange, which now are, or hereafter may be for the time being in force

\*I am aware that I must acquire Stock Exchange Share before exercising any of the privileges of Membership

My Residence is

My Office is

My Bankers are

†I propose to act as a Broker	} Strike out the lines which do not apply
I propose to act as a Broker's Clerk	
I propose to act as a Jobber	
I propose to act as a Jobber's Clerk	
I do not propose to engage in active Business	

I am not engaged as Principal or Clerk in any business other than that of The Stock Exchange, nor is my wife engaged in business, nor am I a Member of, or Subscriber to, any other Institution in which dealings in Stocks or Shares are carried on

I am, Sir, yours faithfully,

*(Signature in full )*

We recommend Mr , who has not exercised his right of nomination or become ineligible under Rule 26, as a fit Person to be re-elected a Member of The Stock Exchange

\*.\* *(Signatures)* }

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\*.\* The Recommenders must attend, together with the person recommended, at such time as the Committee may require.

The Recommenders are required to have such personal knowledge of the applicant and of his past and present circumstances as shall satisfy the Committee as to his eligibility

The Subscription is to be paid to the credit of the Managers

\* To be struck out by applicants who from the date of their admission do not require a Share Qualification, or who may not have parted with their Qualification Share or Shares

† The names of all Members who return themselves as Brokers, or Clerks to Brokers, will be inserted in the published " Lists of Brokers who are Members of The Stock Exchange "

#### 4. Form of Application for Admission with Three Sureties—

(Rule 33 [1])

*To the Secretary to the Committee for General Purposes.*

SIR,

Please acquaint the Committee for General Purposes that I am desirous of being admitted a Member of The Stock Exchange, for the year commencing on the 25th of March, 19 , upon the terms of, and under and subject in all respects to the Rules and Regulations of The Stock Exchange, which now are, or hereafter may be for the time being in force

I have read the Rules and Regulations of The Stock Exchange

I am a British born subject, and                      years of age

I am aware that I must acquire Three Stock Exchange Shares before exercising any of the privileges of Membership.

I append Nomination Form No

I enclose Statement by my Recommenders as laid down in Rule 35

Overleaf is Statement by myself in accordance with Rule 38

My Residence is

My Office is

My Bankers are

I propose to act as a Broker	} Strike out the lines which do not apply
I propose to act as a Broker's Clerk	
I propose to act as a Jobber	
I propose to act as a Jobber's Clerk	
I do not propose to engage in active Business	

I am not engaged as Principal or Clerk in any business other than that of The Stock Exchange, nor is my wife engaged in business, nor am I a Member of, or Subscriber to, any other Institution in which dealings in Stocks or Shares are carried on

I am, Sir, yours faithfully,

(Signature in full)

We recommend Mr \_\_\_\_\_ as a fit Person to be admitted a Member of The Stock Exchange, and in case he shall be publicly declared a Defaulter within Four years from the date of his admission, we each of us hereby engage to pay to his creditors, upon application, the sum of Five Hundred Pounds to be applied in discharge of his Debts in The Stock Exchange

\* \* \* (Signatures)

Recommenders are required to have such personal knowledge of Candidates and of their past and present circumstances as shall satisfy the Committee as to their eligibility

If a Candidate has been in Partnership he must submit to the Committee a copy of the *London Gazette* in which the dissolution of his Partnership is notified

\*\*\* The Recommenders must attend, together with the person recommended, at such time as the Committee may require

† The names of all Members who return themselves as Brokers, or Clerks to Brokers, will be inserted in the published "Lists of Brokers who are Members of The Stock Exchange"

Rule 38 to be printed on back of Form followed by—

Statement by Applicant

Date \_\_\_\_\_

Signature \_\_\_\_\_

5. Form of Application for Admission with Two Sureties with nomination—

(Rule 33 [2] )

*To the Secretary to the Committee for General Purposes*

SIR.

Please acquaint the Committee for General Purposes that I am desirous of being admitted a Member of The Stock Exchange, for the year commencing on the 25th of March, 19 , upon the terms of, and under and subject in all respects to the Rules and Regulations of The Stock Exchange which now are, or hereafter may be for the time being in force

I have read the Rules and Regulations of The Stock Exchange

I am a British born subject, and                      years of age

I am aware that I must acquire One Stock Exchange Share before exercising any of the privileges of Membership

I append Nomination Form No

I enclose Statement by my Recommenders as laid down in Rule 35.

Overleaf is Statement by myself in accordance with Rule 38

My Residence is

My Office is

My Bankers are

†I propose to act as a Broker I propose to act as a Broker's Clerk I propose to act as a Jobber I propose to act as a Jobber's Clerk I do not propose to engage in active Business	}	Strike out the lines which do not apply
--	---	--

I am not engaged as Principal or Clerk in any business other than that of The Stock Exchange, nor is my wife engaged in business, nor am I a Member of, or Subscriber to, any other Institution in which dealings in Stocks or Shares are carried on.

I am, Sir, yours faithfully,

(Signature in full)

We recommend Mr \_\_\_\_\_ who has never been engaged as a Principal in any business, as a fit Person to be admitted a Member of The Stock Exchange, and in case he shall be publicly declared a Defaulter within Four years from the date of his admission, we each of us hereby engage to pay to his creditors upon application, the sum of Three Hundred Pounds to be applied in discharge of his Debts in The Stock Exchange

\* \* \* (Signatures)

Recommendors are required to have such personal knowledge of Candidates, and of their past and present circumstances as shall satisfy the Committee as to their eligibility

\*\*\* The Recommenders must attend, together with the person recommended, at such time as the Committee may require

† The names of all Members who return themselves as Brokers, or Clerks to Brokers, will be inserted in the published "Lists of Brokers who are Members of The Stock Exchange"

the published lists of brokers who are members of Rule 38 to be printed on back of Form followed by —

Statement by Applicant

Date \_\_\_\_\_

*Signature*

## 6. Form of Application for Admission with Two Sureties without nomination—

(Rules 29 and 33[2] )

*To the Secretary to the Committee for General Purposes*

SIR,

Please acquaint the Committee for General Purposes that I am desirous of being admitted a Member of The Stock Exchange, for the year commencing on the 25th of March, 19 , upon the terms of, and under and subject in all respects to the Rules and Regulations of The Stock Exchange which now are, or hereafter may be for the time being in force

I have read the Rules and Regulations of The Stock Exchange

I am a British born subject, and                      years of age

I am aware that I must acquire One Stock Exchange Share before exercising any of the privileges of Membership

I enclose Statement by my Recommenders as laid down in Rule 35.  
Overleaf is Statement by myself in accordance with Rule 38

My Residence is

My Office is

My Bankers are

† I propose to act as a Broker	} Strike out the lines which do not apply
I propose to act as a Broker's Clerk	
I propose to act as a Jobber	
I propose to act as a Jobber's Clerk	
I do not propose to engage in active Business	

I am not engaged as Principal or Clerk in any business other than that of The Stock Exchange, nor is my wife engaged in business, nor am I a Member of, or Subscriber to, any other Institution in which dealings in Stocks or Shares are carried on

I am, Sir, yours faithfully,

*(Signature in full)*

We recommend Mr                      , who has never been engaged as a Principal in any business, as a fit Person to be admitted a Member of The Stock Exchange, and in case he shall be publicly declared a Defaulter within Four years from the date of his admission, we each of us hereby engage to pay to his creditors, upon application, the sum of Three Hundred Pounds to be applied in discharge of his debts in The Stock Exchange

*\*\* (Signatures)*

Recommenders are required to have such personal knowledge of Candidates and of their past and present circumstances as shall satisfy the Committee as to their eligibility

*\*\** The Recommenders must attend, together with the person recommended, at such time as the Committee may require

† The names of all Members who return themselves as Brokers, or Clerks to Brokers, will be inserted in the published " Lists of Brokers who are Members of The Stock Exchange "

Rule 38 to be printed on back of Forms followed by—

Statement by Applicant

*Date*

*Signature*

# 7. Form of Application for Re-admission without Share Qualification—

(Rule 43 [1] )

(ADMITTED )

*To the Secretary to the Committee for General Purposes*

SIR,

Please acquaint the Committee for General Purposes that I am desirous of being re-admitted a Member of The Stock Exchange, for the year commencing on the 25th of March, 19 , upon the terms of, and under and subject in all respects to the Rules and Regulations of The Stock Exchange, which now are, or hereafter may be for the time being in force

My Residence is

My Bankers are

† I propose to act as a Broker	} Strike out the lines which do not apply
I propose to act as a Broker's Clerk	
I propose to act as a Jobber	
I propose to act as a Jobber's Clerk	
I do not propose to engage in active Business	

I am not engaged as Principal or Clerk in any business other than that of The Stock Exchange, nor is my wife engaged in business, nor am I a Member of, or Subscriber to, any other Institution in which dealings in Stocks or Shares are carried on

I am, Sir, yours faithfully,

*(Signature in full)*

---

† The names of all Members who return themselves as Brokers, or Clerks to Brokers, will be inserted in the published "Lists of Brokers who are Members of The Stock Exchange"



# 8. Form of Application for Re-admission with Share Qualification—

(Rule 45 [1])

ADMISSION AFTER 23RD NOVEMBER, 1904

*To the Secretary to the Committee for General Purposes*

SIR,

Please acquaint the Committee for General Purposes that I am desirous of being re-admitted a Member of The Stock Exchange, for the year commencing on the 25th of March, 19 , upon the terms of, and under and subject in all respects to the Rules and Regulations of The Stock Exchange, which now are, or hereafter may be for the time being in force

My Residence is

My Bankers are

† I propose to act as a Broker	} Strike out the lines which do not apply
I propose to act as a Broker's Clerk	
I propose to act as a Jobber	
I propose to act as a Jobber's Clerk	
I do not propose to engage in active Business	

I am aware that I must acquire One Stock Exchange Share before exercising any of the privileges of Membership

I am not engaged as Principal or Clerk in any business other than that of The Stock Exchange, nor is my wife engaged in business, nor am I a Member of, or Subscriber to, any other Institution in which dealings in Stocks or Shares are carried on

I am, Sir, yours faithfully,

*(Signature in full)*

---

† The names of all Members who return themselves as Brokers, or Clerks to Brokers, will be inserted in the published "Lists of Brokers who are Members of The Stock Exchange"

## 9. Form of Letter to be sent to Members on Re-election—

(Rule 21)

SIR,

I am directed to inform you, that you are re-elected a Member of The Stock Exchange for the year commencing on the 25th of March, 19 , upon the terms of and under and subject in all respects to the Rules and Regulations of The Stock Exchange, which now are, or hereafter may be for the time being in force

I am, Sir,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes

## 10. Form of First Letter, to be sent to New Members on Election—

(Rule 42)

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON, E C 2 ..... .. 19

SIR,

I am directed to inform you that you are elected a Member of The Stock Exchange for the year commencing on the 25th March, 19 , upon the terms of, and under and subject in all respects to the Rules and Regulations of The Stock Exchange, which now are, or hereafter may be for the time being in force

Upon registration into your name of your Qualification Share or Shares, a further Notice will be sent to you giving you the date upon which you can exercise the privileges of Membership

I am, Sir,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes.

11. Form of Second Letter, to be sent to New Members on Admission—

(Rule 42 [2])

Stock Exchange Shares Registered under Rule 42

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON, E C . .

19

SIR,

Referring to my previous notice of the , I am directed to inform you that, the provisions of the Rules relating to the Admission of Members having been complied with, you are now entitled to exercise the privileges of Membership of The Stock Exchange

I am, Sir,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes

12. Form of Letter on Re-admission without Share Qualification—

(Rule 43)

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON, E C

19

SIR,

I am directed to inform you that you are Re-admitted a Member of The Stock Exchange for the year commencing on the 25th of March, 19 , upon the terms of and under and subject in all respects to the Rules and Regulations of The Stock Exchange, which now are, or hereafter may be for the time being in force.

I am, Sir,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes.

### 13 Form of First Letter on Re-admission with Share Qualification—

(Rule 45 )

ADMISSION AFTER 23RD NOVEMBER, 1904

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON, E C . . . . . 19

SIR,

I am directed to inform you that you are Re-admitted a Member of The Stock Exchange for the year commencing on the 25th of March, 19 , upon the terms of and under and subject in all respects to the Rules and Regulations of The Stock Exchange, which now are, or hereafter may be for the time being in force

Upon registration into your name of your Qualification Share a further Notice will be sent to you giving you the date upon which you can exercise the privileges of Membership

I am, Sir

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes

### 14. Form of Second Letter on Re-admission with Share Qualification—

(Rule 45 [2] )

RE-ADMISSION OF MEMBER

ADMITTED AFTER 23RD NOVEMBER, 1904

STOCK EXCHANGE SHARE REGISTERED

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON, E C . . . . . 19

SIR,

Referring to my previous notice of , I am directed to inform you, that the provisions of Rule 45 having been complied with, you are now entitled to exercise the privileges of Membership of The Stock Exchange

I am, Sir,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes

## NOMINATIONS

## 15. Forms of Nomination—

(Rule 27 [1])

No 1.

*To the Committee for General Purposes  
of The Stock Exchange.*

GENTLEMEN,

I  
a Member of The Stock Exchange, hereby nominate Mr  
as my successor and I hereby tender the resignation of my membership in his  
favour.

I am, Gentlemen,  
Yours faithfully,

.. . . . of . . . . . 19

No. 2.

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

I  
having resigned my Membership of The Stock Exchange, and such resignation  
having been duly accepted by the Committee, hereby nominate Mr  
as my successor

I am, Gentlemen,  
Yours faithfully,

.. . . . of .. . . . 19

No 3

*To the Committee for General Purposes  
of The Stock Exchange.*

GENTLEMEN,

I having discontinued  
my subscription for the year commencing 25th March, 19 , hereby nominate  
Mr. as my successor

I am, Gentlemen,  
Yours faithfully,

. of .. .... 19

No 4.

*To the Committee for General Purposes  
of The Stock Exchange.*

GENTLEMEN,

We, the undersigned legal personal representatives of Mr.  
deceased, until a Member of  
The Stock Exchange, hereby nominate Mr  
as his successor

We are, Gentlemen,  
Yours faithfully,

Witness

.. . . . of . . . . . 19

## No 5

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

In exercise of special right of Nomination No \_\_\_\_\_ issued under  
Rule 27 I hereby nominate Mr \_\_\_\_\_ for election  
as a Member of The Stock Exchange

I am, Gentlemen,  
Yours faithfully,

Dated \_\_\_\_\_ 19 \_\_\_\_

NOTE—This special right of nomination must, pursuant to Rule 27 (4), be exercised and lodged  
with the Secretary to the Committee on or before \_\_\_\_\_ 19 \_\_\_\_

## No 6

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

I, the undersigned, as Official Assignee of Mr \_\_\_\_\_  
until \_\_\_\_\_ a Member of the Stock Exchange, hereby nominate  
Mr \_\_\_\_\_ for election as a Member of The Stock Exchange

I am, Gentlemen,  
Yours faithfully,

Dated \_\_\_\_\_ 19 \_\_\_\_ Official Assignee

NOTE—This right of nomination must be exercised and lodged with the Secretary to the Committee  
on or before \_\_\_\_\_ 19 \_\_\_\_

## No 7

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

Having purchased from you on \_\_\_\_\_ 19 \_\_\_\_ a right of  
nomination under Rule 27 (6) or Rule 28 (2), I hereby nominate Mr \_\_\_\_\_  
for election as a Member of The Stock Exchange

I am, Gentlemen,  
Yours faithfully,

Dated \_\_\_\_\_ . . . 19 \_\_\_\_

NOTE—A right of nomination sold under Rule 27 (6) or Rule 28 (2) must be exercised within  
Twelve months of the date of purchase, otherwise it will lapse

## WAITING LIST

## 16. Form of Application to be placed upon the Waiting List.

(Rule 29 [2] )

*To the Committee for General Purposes  
of The Stock Exchange.*

GENTLEMEN,

I having completed Four years' service as a Clerk in The Stock Exchange in accordance with Rule 29 (2), hereby apply to be placed upon the Waiting List of Applicants for election without nomination

Name (in full)

Private Address

Employer

Date

I am, Gentlemen,

Yours faithfully

(Signature )

## MARKET PARTNERSHIP

(Rule 57 )

## 17. Form of Notice of Market Partnership—

*To the Secretary to the  
Committee for General Purposes.*

SIR,

We, the undersigned, who each deal and settle our Bargains in our own name, beg to inform the Committee for General Purposes that, from this day until further notice, we hold ourselves jointly responsible to The Stock Exchange for all transactions entered into by either of us in

. . .  
. . .  
. . . . .

We are, Sir, &amp;c.

## CLERKS

### 18. Form of Application for an Authorized Clerk—

(Rule 58.)

☞ Observe the Note at foot hereof.

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

request your permission to introduce  
(Aged ) as Clerk, AUTHORIZED,  
for the year commencing 25th March, 19 , assuring you that he is in every  
respect eligible in strict conformity with Rules Nos 64, 65 and 67

Yours faithfully,

THE STOCK EXCHANGE, LONDON  
of 19

Rule 64 —A Member applying for the admission of a Clerk must satisfy the Committee—

- 1 That the Clerk's of the requisite age, i.e. for an Authorized Clerk, 21, for an Unauthorized  
or Settling Room Clerk, 17  
2 That the Clerk would be in all other respects eligible for admission as a Member  
3 That he has obtained a satisfactory Reference from the Clerk's last employer  
4 That he has a sufficient knowledge of the Clerk's previous career

19. Form of Application for an Unauthorized Clerk—

(Rule 58)

 Observe the Notes at foot hereof

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

request your permission to introduce  
(Aged ) as  
Clerk UNAUTHORIZED, for the year commencing 25th March,  
19 , assuring you that he is in every respect eligible in strict conformity  
with Rules Nos 64, 65 and 66

Yours faithfully,

THE STOCK EXCHANGE, LONDON  
of 19

Rule 64 —A Member applying for the admission of a Clerk must satisfy the Committee—

- 1 That the Clerk is of the requisite age, 16 for an Authorized Clerk, 21, for an Unauthorized  
2 or Settling Room Clerk, 17  
3 That the Clerk would be in all other respects eligible for admission as a Member  
4 That he has obtained a satisfactory Reference from the Clerk's last employer  
5 That he has a sufficient knowledge of the Clerk's previous career.

If the Clerk has been in Partnership out of The Stock Exchange he must submit to the Committee copy of the *London Gazette* in which the dissolution of his Partnership is notified



## 20. Form of Application for a Settling Room Clerk—

(Rule 58)

☞ Observe the Notes at foot hereof

*To the Committee for General Purposes  
of The Stock Exchange.*

GENTLEMEN,

request your permission to introduce  
(Aged )

as

Clerk, { FOR ADMISSION TO THE  
SETTLING ROOM,

for the year commencing 25th March, 19 , assuring you that he is in every respect eligible in strict conformity with Rules Nos 64, 65 and 66

Yours faithfully,

THE STOCK EXCHANGE, LONDON  
of 19

Rule 64—A Member applying for the admission of a Clerk must satisfy the Committee—

1 That the Clerk is of the requisite age, 16 for an Authorized Clerk, 21, for an Unauthorized or Settling Room Clerk, 17

2 That the Clerk would be in all other respects eligible for admission as a Member

3 That he has obtained a satisfactory Reference from the Clerk's last employer

4 That he has a sufficient knowledge of the Clerk's previous career

If the Clerk has been in Partnership out of The Stock Exchange he must submit to the Committee a copy of the *London Gazette* in which the dissolution of his Partnership is notified

## 21. Form of Application for a Temporary Unauthorized Clerk.

(Rule 60)

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

request your permission to introduce from the  
to

as

Clerk, UNAUTHORIZED, temporarily, in lieu of  
who is serving with the at  
that period

(Aged )

during

Yours faithfully,

THE STOCK EXCHANGE, LONDON  
of 19

---

With the concurrence of the Trustees and Managers, the Committee will be prepared to allow Settling Room Clerks to enter the House to take the place of Unauthorized Clerks who may be absent as Members of the Territorial Force for the period of their Annual Training in Camp

They will also be prepared to admit temporary Unauthorized Clerks for a similar purpose  
The Trustees and Managers have consented to waive any entrance fee or subscription in respect of such temporary Clerks

## 22 Form of Application for a Temporary Settling Room Clerk—

(Rule 60)

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

request your permission to introduce from the  
to

as Clerk, FOR ADMISSION TO THE SETTling ROOMS temporarily, in lieu (Aged )  
of who is serving with the  
at during that period

Yours faithfully,

THE STOCK EXCHANGE, LONDON.  
of 19

---

With the concurrence of the Trustees and Managers, the Committee will be prepared to allow Settling Room Clerks to enter the House to take the place of Unauthorized Clerks who may be absent as Members of the Territorial Force for the period of their Annual Training in Camp

They will also be prepared to admit temporary Unauthorized Clerks for a similar purpose  
The Trustees and Managers have consented to waive any entrance fee or subscription in respect of such temporary Clerks

## 23. Clerks registered for Admission to the Decoding Room.

(Rule 61)

☞ Observe the Notes at foot hereof.

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

request your permission to register

as \*Clerk FOR ADMISSION TO THE DECODING ROOMS, (Aged )  
for the year commencing 25th March, 19

Yours faithfully,

THE STOCK EXCHANGE LONDON.  
of 19

---

\* If the Clerk is already an Unauthorized or Settling Room Clerk it must be so stated

### REGULATIONS AS TO REGISTRATION OF DECODING ROOM CLERKS

Members having seats in the Decoding Room shall be required to register the names of the Clerks they wish to employ in the room, and may so register *two* Clerks for *each* seat, but only one Clerk per seat may be employed in the room at any time

Members applying to register Clerks must attend before the Clerks' Sub-Committee to receive permission, which the Committee may withdraw at any time All Clerks admitted to the Decoding Room shall be *bona fide* Clerks of the Members who rent seats

If Clerks so admitted have not the right also to enter The Stock Exchange or the Settling Rooms, service in the Decoding Room shall not reckon towards qualification for Membership or Authorization, but service in the Decoding Room shall not disqualify Clerks who also have admission to The Stock Exchange or the Settling Rooms

In a case of emergency a Member may make written application for the temporary substitution of an unauthorized Clerk for a registered Clerk which must be approved by the signature of either the Chairman or the Deputy-Chairman, but such permission shall only hold good until the next meeting of the Clerks' Sub-Committee

24. Form of Letter to be sent to a Member on the Admission of an Authorized Clerk—

(Rule 69)

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON, . . . . . , 19

DEAR SIR ,

I am directed to acquaint you that the Committee have allowed your application for the introduction of Mr  
as your Clerk

AUTHORIZED

for the year commencing 25th March, 19

I am, Dear Sir ,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes

To

25. Form of Letter to be sent to a Member on the Admission of an Unauthorized Clerk—

(Rule 69)

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON, . . . . . , 19

DEAR SIR ,

I am directed to acquaint you that the Committee have allowed your application for the introduction of Mr  
as your Clerk

UNAUTHORIZED

for the year commencing 25th March, 19

I enclose Badge No . . . .

I am, Dear Sir ,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes

To

---

Employers will be held responsible for the strict observance of the following Regulations—

- (1) Unauthorized Clerks are not allowed to transact business of any sort, whether in the nature of purchase, sale or contango, in The Stock Exchange or elsewhere
- (2) Unauthorized Clerks are required to wear their Badges in accordance with the Regulations in the lapels of their coats
- (3) The conduct of Unauthorized Clerks must not interfere with the facility of transacting business

26 Form of Letter to be sent to a Member on the Admission ,  
of a Settling Room Clerk—

(Rule 69 )

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON,

, 19

DEAR SIR ,

I am directed to acquaint you that the Committee have allowed your application for the introduction of Mr as your Clerk

FOR ADMISSION TO THE SETTling ROOM

for the year commencing 25th March, 19

I enclose Badge No

I am, Dear Sir ,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes.

To

---

Employers will be held responsible for the strict observance of these Regulations—

(1) Settling Room Clerks are only allowed to enter the Settling Room

(2) Settling Room Clerks are required to wear their Badges in accordance with the Regulations,  
ie in the lapels of their coats

27. Form of Letter to be sent to a Member on the admission of a  
Temporary Unauthorized Clerk.

(Rule 69 )

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON, . . . . . 19

TERRITORIAL TRAINING

DEAR SIR ,

I am directed to acquaint you that the Committee have allowed your application for the introduction of Mr. as your Clerk

UNAUTHORIZED, temporarily,

in lieu of

I enclose Badge No

which please return on

I am, Dear Sir,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes

To

---

Employers will be held responsible for the strict observance of the following Regulations—

(1) Unauthorized Clerks are not allowed to transact business of any sort, whether in the nature of purchase, sale or contango, in The Stock Exchange or elsewhere

(2) Unauthorized Clerks are required to wear their Badges in accordance with the Regulations,  
ie in the lapels of their coats

(3) The conduct of Unauthorized Clerks must not interfere with the facility of transacting business.

28. Form of Letter to be sent to a member on the admission of a Temporary Settling Room Clerk.

(Rule 69 )

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON, ..

19

TERRITORIAL TRAINING

DEAR SIR ,

I am directed to acquaint you that the Committee have allowed your application for the introduction of Mr as your Clerk

FOR ADMISSION TO THE SETTLING ROOM, temporarily, in lieu of

I enclose Badge No which please return on

I am, Dear Sir,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes

To

Employers will be held responsible for the strict observance of these Regulations

(1) Settling Room Clerks are only allowed to enter the Settling Room

(2) Settling Room Clerks are required to wear their Badges in accordance with the Regulations, i.e. in the lapels of their coats

29. Form of Letter to be sent to a Member on the admission of a Decoding Room Clerk

(Rule 61 )

COMMITTEE ROOM,

THE STOCK EXCHANGE,

LONDON, . . .

19

DEAR SIR ,

I am directed to acquaint you that the Committee have allowed your application for the registration of Mr as your Clerk

FOR ADMISSION TO THE DECODING ROOMS  
for the year commencing 25th March, 19

I am, Dear Sir,

Yours faithfully,

A L F GREEN,

Secretary to the Committee for General Purposes

To

REGULATIONS AS TO REGISTRATION OF DECODING ROOM CLERKS

Members having seats in the Decoding Room shall be required to register the names of the Clerks they wish to employ in the room, and may so register *two* Clerks for *each* seat, but only one Clerk per seat may be employed in the room at any time

Members applying to register Clerks must attend before the Clerks' Sub-Committee to receive permission, which the Committee may withdraw at any time All Clerks admitted to the Decoding Room shall be *bona fide* Clerks of the Members who rent seats

If Clerks so admitted have not the right also to enter The Stock Exchange or the Settling Rooms, service in the Decoding Room shall not reckon towards qualification for Membership or Authorization, but service in the Decoding Room shall not disqualify Clerks who also have admission to The Stock Exchange or the Settling Rooms

In a case of emergency a Member may make written application for the temporary substitution of an unregistered Clerk for a registered Clerk which must be approved by the signature of either the Chairman or the Deputy-Chairman, but such permission shall only hold good until the next meeting of the Clerks' Sub-Committee

## CLERKS' BADGES

(Rule 68)

## 30 Regulations as to Clerks' Badges—

- 1 An Unauthorized Clerk will not be allowed to enter the House or the Settling or Checking Rooms without a Blue Badge worn in the lapel of the coat, and a Settling Room Clerk will not be allowed to enter the Settling Room without a Red Badge worn in the same manner
- 2 The only Badges authorized are those issued from the Secretary's Office, and Members are required to notify their loss to the Secretary.
- 3 If a Badge be lost, a fine of 10s is to be paid to the Trustees and Managers
- 4 A Member withdrawing a Clerk is to return the Badge to the Secretary's Office at the date when the withdrawal takes effect
- 5 A Member authorizing a Clerk or promoting a Settling Room Clerk to the House is to return the Clerk's Badge as soon as the change is passed by the Committee

## REFERENCE BY NON-MEMBER

## 31 Form of Reference by Non-Member—

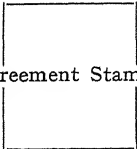
(Rule 77)

*To the Committee for General Purposes of  
The Stock Exchange, London,*

In the matter of a Complaint between \_\_\_\_\_ and \_\_\_\_\_

GENTLEMEN,

I do hereby consent to refer this matter to you, and I undertake to be bound by the said reference, and to abide by and forthwith to carry into effect your Award, Resolution or decision in this matter, in the same manner as if I were a Member of The Stock Exchange, and I further undertake not to institute, prosecute, or cause, or procure to be instituted, or prosecuted, or take any part in proceedings, either civil or criminal, in respect of the case submitted. And I consent that the Committee may proceed in accordance with their ordinary rules of procedure, and I undertake to be bound by the same. Also that the Committee may proceed *ex parte* after notice, and that it shall be no objection that the Members of the Committee present vary during the inquiry, or that any of them may not have heard the whole of the evidence, and any Award or Resolution of the Committee, signed by the Chairman for the time being, shall be conclusive that the same was duly made or passed, and that the reference was conducted in accordance with the practice of the Committee. And I hereby agree that this letter shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act, 1889



Agreement Stamp

## 32. ARBITRAGE BUSINESS

(Rule 92)

, 19

*To the Secretary to the  
Committee for General Purposes*

SIR,

I  
We beg to apply under Rule 92 for authority to carry on Arbitrage Business  
until the 25th March, 19 , with

. . . . .  
. . . . . of . . . . .  
. . . . .

in connection with my business as BROKERS (One of these  
our JOBBERS { lines to be  
struck out.

The business of this Firm is that of . . . . . †

I am,  
We are Sir,

Yours faithfully,

92 Subject to annual authorization by the Committee a Member, whether Broker or Jobber, may carry on Arbitrage business outside Great Britain and Northern Ireland and the Irish Free State with a Non-Member, but a Broker so authorized shall not make prices or otherwise carry on the business of a Jobber, and a Jobber so authorized shall not act as an Agent by executing orders for such Non-Member

## REGULATIONS.

(1) Except under special circumstances permission will not be granted to any Member to carry on Arbitrage business with more than one correspondent in the same Town

(2) The names of Members authorized to transact Arbitrage business will be placed on a list which will be open to the inspection of Members in the Secretary's Office, but the names and addresses of their correspondents will not be disclosed

† If Stockbrokers, the applicant must state whether the Firm are members or otherwise of the Foreign Stock Exchange or Curb Market

## 33 OFFICIAL LIST OF MAKING-UP PRICES

(Rule 109)

Regulations as to the inclusion of Securities in The Stock Exchange Official List of Making-up Prices

- (1) The List shall be subject to Revision at intervals of not more than three months
- (2) Securities not undertaken by the Settlement Department shall only be included in the Official List of Making-up Prices for ordinary accounts subsequent to the First Settlement upon the signed requisition of Five Members or Firms, Two of whom at least shall be Brokers
- (3) Securities undertaken by the Settlement Department shall be included in the Official List of Making-up Prices without requisition

34. REGULATIONS FOR OBTAINING PERMISSION  
TO DEAL IN NEW ISSUES

(Rule 159)

4 The following documents and particulars should be sent to the Secretary of the Share and Loan Department, when application is made for permission to deal—

1 (a) Certificate of Incorporation (in the case of a Company registered abroad notarially certified copy or translation of Certificate of Incorporation and of By-Laws), (b) the Certificate entitling the Company to commence business (if required), and (c) Memorandum and Articles of Association and copy or draft of Trust Deed (if applicable)

2 Copy of Resolutions authorizing issue

3 Certified Copy of Agreement relating to issue of Shares credited as fully-paid and of any other contracts mentioned in Prospectus

4 In the case of an issue for cash, copy of Prospectus, Offer for Sale or Circular of Issue, stating all material conditions relating to the flotation of the Issue, and (in the case of a new Company) to the formation of the Company and if publicly advertised, copy of principal London newspaper in which the full Prospectus was advertised. In the case of an issue by Prospectus, Offer for Sale, or Circular it must be stated whether any Shares are under option and if so at what prices, when such options expire and the consideration (if any) given for such options

5 Specimen (or advance proof) of Allotment Letter, and, if possible, of Scrip and Definitive Certificates. Allotment Letters must be serially numbered and be printed on good quality paper. Any Renunciation Letter attached to an Allotment Letter for fully-paid Shares must not be current for a period exceeding six weeks and for partly-paid Shares for a period exceeding one month from the date of the final call. When, at the same time as an allotment is made for Shares issued for cash, Shares of the same class are also allotted, credited as fully-paid, to Vendors or others for a consideration other than cash, the period for renunciation may be the same as, but not longer than, that allowed in the case of Shares issued for cash. The form of renunciation on Allotment Letters (and Letters of Rights) must be printed on the back of, or attached to the document in question. Split Allotment Letters and Split Letters of Rights must be certified by an Official of the Company.

NOTE —In cases where a Government, Municipality or Company have sold an issue of Stock which is subsequently offered to the Public, a certified copy of the Resolution or other document, evidencing that the Purchasing House



has received due authority to issue the scrip on account of the Government, Municipality or Company, must be supplied. If no such authority has been given, the scrip must be enfaced "Contractor's Scrip."

In order to facilitate the certification of transfers it is suggested that the Allotment Letters should contain the distinctive numbers of the Shares to which they relate

6 Letter (a) giving distinctive numbers—

(1) of Shares for which Permission to Deal is being applied for, distinguishing those to be allotted

(c) for Cash,

(v) to Vendors or others for a consideration other than Cash or in exchange for Cash,

(o) in pursuance of an option

(2) Giving number of Shares unissued or for which Permission to Deal is not applied for, distinguishing those

(v) allotted to Vendors or others for a consideration other than Cash or in exchange for Cash,

(o) under option,

(r) reserved for future issue

(3) In the case of a further issue stating whether or not the Shares are identical† in all respects with existing Shares

7 Approximate date when Definitive Certificates will be ready for issue

8 List of allottees or present holders—name, address, and holding (when required)

9 In all cases other than Government and Municipal Loans, and issues by Statutory Boards, Companies incorporated by Special Act of Parliament and other similar authorities, whether the issue is made by Prospectus or otherwise, particulars of any underwriting or commission must be disclosed and a copy of the underwriting agreement and of sub-underwriting letter, if any, together with (if required) a list containing the names, addresses, and descriptions of sub-underwriters and the amount sub-underwritten must be lodged with the Department

10 An undertaking under the seal of the Company in the following form and to the following effect (printed copies of such undertaking are available in the Share and Loan Department)—

(1) To Split Letters of Allotment and if a "Rights" issue to Split Letters of Rights, and to have any such "Splits" certified by an official of the Company

(2) To issue the Definitive Certificates within one month of the date of the lodgment of the transfer and to issue balance Certificates, if required, within the same period.

(3) To notify the Share or Stockholder as soon as a transfer out of his name has been certified by the Company's Officials or notification of Certification has been received from the Share and Loan Department or any Associated Stock Exchange

(4) To issue all Allotment Letters simultaneously numbered serially and in the event of its being impossible to issue Letters of Regret at the same time to insert in the Press a Notice to that effect, so that the Notice shall appear on the morning after the Letters of Allotment have been posted

(5) To certify transfers against Allotment Letters

(6) Where power has been taken in the Articles to issue Share Warrants to Bearer, in the event of the Company deciding to make such an issue (1) to issue such Warrants in exchange for Registered Shares within three weeks of

† A statement that Shares are in all respects identical is understood to mean that—

(1) They are of the same nominal value, and that the same amount per Share has been called up  
(2) They carry the same rights as to unrestricted transfer, attendance and voting at meetings, and in all other respects

(3) They are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution the dividend payable on each Share will amount to exactly the same sum

ADDITIONAL NOTE TO CLAUSE 5

NEW CLAUSE 11

(1) If Scrip Certificates are to be issued—

- (a) The denominations must be stated in the Prospectus or the advertisement published under Appendix 34b
- (b) They must be ready for issue within 21 days of allotment
- (c) They must bear an autographic signature and there must be supplied to the Committee and (in cases where the official signing is not the Registrar or his officer) to the Registrar of the Stock, specimen signatures of the official or officials of the Borrower, Bank or Issuing House authorized to sign together with the distinctive numbers of the Scrip signed by each official

- To the Committee for General Purposes  
of The Stock Exchange*

In connection with the issue of £ Stock of the  
(Local Authority) I hereby certify that arrangements  
to the following effect have been duly made—

If the issue is made by Prospectus All moneys received by the

Bank  
Issuing House under the Prospectus dated \_\_\_\_\_ on behalf

of the (Local Authority) and to which they are entitled will be paid within the following periods to the Bank at being the ordinary Bankers of the

(Local Authority) for credit to a special account  
which has been opened in the name of the Stock—

Moneys paid prior to allotment—3 days after allotment

All other moneys—24 hours after collection

If the Stock has been sold outright to a Purchaser Allotment letters and  
Scrip Certificates are not being issued by (Purchaser)

on his (or their) own behalf but by or on behalf of the (Local Authority) No such document will be issued until the

(Purchaser) has paid to the (Bank) at  
being the ordinary Bankers of the

(Local Authority) for credit to a Special Banking Account which has been opened in the name of the Stock all sums due from the (Purchaser) in respect of the amount certified in the document to have been paid by the holder thereof

The Bank  
Issuing House will supply the Registrar—

- (1) As early as practicable with a complete record of the Scrip Certificates issued by them showing in each case the number and other identification mark of the Certificate, the amount of Stock to which it relates and a description of the manner in which it has been authenticated and
  - (2) will notify the Registrar immediately payment has been made in full on any Scrip Certificate
- (NOTE —Where Scrip Certificates are not to be issued the above Clause to be amended so that it applies to allotment letters )

#### OR

(In cases where the Bank or Issuing House are also Registrars of the Stock )

The Bank  
Issuing House are the duly appointed

Registrars of the Stock

The Registrar will not register or inscribe any person as a holder of the Stock except on surrender for cancellation of fully-paid Scrip Certificates for that amount. Provided that if a Scrip Certificate is lost or destroyed the Registrar may not earlier than the first day on which Scrip Certificates can be lodged for registration or inscription register or inscribe a person claiming to be the holder of the lost or destroyed Scrip upon such indemnity being given as may be required

#### NOTE—

- (1) If Scrip Certificates are not to be issued amend by substituting “fully-paid allotment letters” for “Scrip Certificates”
- (2) This Clause will not be required in cases where the Local Authority themselves carry out the issue of the allotment letters and Scrip Certificates and the Registrar of the Stock is their officer. In such a case it will be sufficient to state the fact

the deposit of the Share Certificates, and (u) to certify transfers against the deposit of Share Warrants to Bearer

- (7) To notify the Share and Loan Department without delay—
  - (i) Of any changes in the Directorate by death, resignation, or removal,
  - (ii) Of any extension of time granted for the currency of temporary documents
- (8) To forward to the Share and Loan Department—
  - (a) Three copies of the Statutory and Annual Report and Accounts as soon as issued (unless such provision is contained in the Articles of Association)
  - (b) Three copies of all Resolutions increasing the Capital and all notices relating to further issues of Capital, call letters or any other circular at the same time as sent to the Shareholders
  - (c) Three copies of all Resolutions passed by the Company in General Meeting other than Resolutions passed at an Ordinary General Meeting for the purpose of adopting the Report and Accounts, declaring dividends, and re-electing Directors and Auditors, and
  - (d) To advise the Share and Loan Department by letter of all dividends recommended or declared immediately the Board Meeting has been held to fix the same

*B* In the absence of any Prospectus publicly advertised in this Country, or Circular to Shareholders, the Committee will also require an advertisement in two leading London Morning papers giving all material conditions relating to the formation of the Company and to the flotation of the Issue, and headed as under—

“This notice is not an invitation to the Public to subscribe, but is issued in compliance with the Regulations of the Committee of The Stock Exchange London, for the purpose of giving information to the Public with regard to the Company. The Directors collectively and individually accept full responsibility for the accuracy of the information given.”

The advertisement must be in the appropriate form I, II, III, or IV herein.

A copy of the advertisement must be signed by or (with the consent of the Committee) on behalf of all the Directors and a signed copy together with a properly certified copy of the Resolution of the Board of the Company approving and authorizing the advertisement must be lodged with the Share and Loan Department, except that in the case of Foreign Companies the Committee may dispense with a copy of the advertisement so signed on receiving satisfactory evidence that it has been approved and authorized by a Resolution of the Board of the Company.

A copy of each of the Newspapers in which the advertisement appears must be supplied.

# I

In the case of a Company (other than a Company incorporated by Special Act of Parliament) (a) no part of whose Share or Loan Capital is already dealt in or quoted on The Stock Exchange, and (b) whose Annual Accounts for at least two years have not been made up and audited, the statement required to be advertised by Appendix 34b must contain the following information—

- (1) How, when and where the Company was incorporated
- (2) The principal objects of the Company
- (3) In the case of a Company not incorporated in the United Kingdom, whether it has or has not a place of business in the United Kingdom, and the address of the principal place of business in the United Kingdom (if any)
- (4) The names, addresses, and descriptions of the Directors
- (5) The name, address, and professional qualification of the Auditors

NOTE—Qualification means Chartered Accountant, Incorporated Accountant, etc.

(6) The names and addresses of the Bankers, London Brokers, and Secretary and situation of Registered Office

(7) The nominal capital of the Company, the amount issued or agreed to be issued, the amount paid up and, where there is more than one class of share, the rights of each class of share as regards dividend, capital, and voting

(8) Particulars of any loan capital created and the amount issued and outstanding or agreed to be issued, and of the rights conferred upon the holders thereof and the obligations undertaken by the Company in respect thereof, and short particulars of any mortgages and charges subsisting on any part of the Company's assets

(9) In the case of Share or Loan Capital issued or agreed to be issued for cash, the price and terms upon which the same has been or is to be issued and (if not already fully-paid) the dates when instalments are payable with the amount of all calls or instalments in arrear

(10) The provisions of the Articles of Association, By-Laws or other corresponding document with regard to—

(a) Qualification of Directors

(b) Remuneration of Directors or other similar body

(c) Any provisions enabling the Directors to vote remuneration to themselves or any members of their body

(d) Any provisions with regard to the borrowing powers of the Directors and how such borrowing powers can be varied

(11) Particulars of any preliminary expenses incurred or proposed to be incurred

(12) A statement setting out clearly the working capital with which the Company started or is to start business, additions (if any) since made and whence derived, and the amount available at the date of the statement for working capital, after providing for all purchase considerations, promotion profits, preliminary expenses, losses, and interest or dividend payments to date, with a statement by the Directors that in their opinion the working capital available is sufficient or, if not, how it is proposed to provide the additional working capital thought by the Directors to be necessary

(13) Particulars of the Share or Loan Capital that has been issued or is proposed to be issued fully or partly paid up otherwise than in cash and the consideration for which the same has been issued or is proposed to be issued

(14) The names and addresses of the vendors of any property purchased or acquired by the Company or proposed to be purchased or acquired on capital account and the amount paid or payable in cash, shares or securities to the vendor and, where there is more than one separate vendor or the Company is a sub-purchaser, the amount so paid or payable to each vendor and the amount (if any) payable for goodwill

(15) The amount of any cash, shares or securities paid or proposed to be paid to any Promoter and the consideration for such payment

(16) Particulars of any commissions, discounts, brokerages or other special terms granted to any persons in connection with the issue or sale of any of the Share or Loan Capital of the Company

(17) A statement of the issued Share Capital of any Company acting as Promoter or principal underwriter, the amount paid up thereon, the date of its incorporation, the names of its Directors, Bankers and Auditors, and such other particulars as the Committee think necessary in connection therewith, unless particulars of such Company are contained in the issue of the "Stock Exchange Official Intelligence" current at the date of the publication of this advertisement

(18) The dates of and parties to all material contracts with a description of the nature of the Contracts not being contracts entered into in the ordinary course of the business carried on or intended to be carried on by the Company

(19) Particulars of any of the Share or Loan Capital of the Company which

is under option, or agreed to be put under option, with the price and term of the option and consideration for which the option was granted

(20) Full particulars of the nature and extent of the interest (if any) of every Director in the promotion of, or the property proposed to be acquired by, the Company, and, where the interest of such a Director consists of being a partner in a firm, the nature or extent of the interest of the firm

(21) A statement of all sums paid or agreed to be paid to any Director or to any firm of which he is a member in cash or shares or otherwise by any person either to induce him to become or to qualify him as a Director or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the Company

(22) A statement certified by the Company's Auditors as to the periods (if any) for which the Company's accounts have been made up and audited and particulars of the Share or Loan Capital subscribed and the cash actually received by the Company in connection therewith, also particulars of all dividends paid and amounts carried forward and carried or proposed to be carried to reserve out of the profits of any such periods as shown in the accounts submitted to the Shareholders or in the Directors' Reports attached to the Balance Sheet under Section 123 (2) of the Companies Act, 1929

(23) A copy of the last audited Balance Sheet and Profit and Loss Account with a copy of the Auditors' Certificate and any notes or observations in or on the Balance Sheet required to be published by any Act of Parliament relating to the Company

(24) If the Company has acquired or is proposing to acquire any business, a report by the Accountants named in the advertisement upon the profits of the business proposed to be acquired for each of the three financial years for which accounts have been made up immediately preceding the date of the advertisement

(25) A reasonable time (not being less than seven days) during which and a place in the City of London at which a copy of the Memorandum and Articles of Association of the Company, any Statute or Orders having statutory effect affecting the Company, copies of all material contracts, Trust Deed (if any) referred to in the advertisement, and copies of all the audited accounts of the Company since its formation with the Auditors' certificates, copies of all other reports and Accounts referred to in the advertisement and all notes or information required to be given by the Companies Act affecting such accounts can be inspected by any member of the Public during usual business hours

NOTE 1—In the case of foreign Companies, the documents to be offered for inspection will be the documents corresponding to those above mentioned in the case of British Companies, and where such documents are not in the English language notarially certified translations thereof must be available for inspection

NOTE 2—In cases where it is contended that contracts cannot be offered for inspection without disclosing to trade competitors important information which might be detrimental to the Company's interests, application can be made to the Committee to dispense with the offering of such documents for inspection

NOTE 3—In any case where information is not given under any of the above heads Nos 11, 13, 14, 15, 16, 19, 20, and 21, the advertised particulars must state that no such payments have been made or explain why the information is not given

## II

In the case of a Company (other than a Company incorporated by Special Act of Parliament) (a) no part of whose Share or Loan Capital is already dealt in or quoted on The Stock Exchange, and (b) whose annual accounts for at least two years have been made up and audited, the statement required to be advertised by Appendix 34b must contain the following information—

(1) How, when and where the Company was incorporated

- (2) The principal objects of the Company
  - (3) In the case of a Company not incorporated in the United Kingdom, whether it has or has not a place of business in the United Kingdom and the address of the principal place of business in the United Kingdom (if any)
  - (4) The names, addresses, and descriptions of the Directors
  - (5) The name, address, and professional qualification of the Auditors
- NOTE—Qualification means Chartered Accountant, Incorporated Accountant, etc
- (6) The names and addresses of the Bankers, London Brokers and Secretary and the situation of the registered office
  - (7) The nominal Capital of the Company, the amount issued or agreed to be issued, the amount paid up and, where there is more than one class of share, the rights of each class of share as regards dividend, capital and voting
  - (8) Particulars of any Loan Capital created and the amount issued and outstanding or agreed to be issued and of the rights conferred upon the holders thereof and the obligations undertaken by the Company in respect thereof and short particulars of any mortgages and charges subsisting upon any part of the Company's assets
  - (9) In the case of Share or Loan Capital issued or agreed to be issued for cash within twelve months of the date of the advertisement, the price and terms upon which the same has been or is to be issued, and if not already fully paid the dates when instalments are payable with the amount of all calls or instalments in arrear
  - (10) The provisions of the Articles of Association, By-Laws or other corresponding document with regard to the borrowing powers of the Directors and how such borrowing powers can be varied
  - (11) A statement that in the opinion of the Directors the Company has sufficient working capital for the purposes of its business, or, if not, showing how the necessary working capital is to be provided
  - (12) Particulars of the Share or Loan Capital that has, within two years preceding the date of the advertisement, been issued or is proposed to be issued fully or partly paid up otherwise than in cash and the consideration for which the same has been issued or is proposed to be issued
  - (13) The names and addresses of the vendors of any property purchased or acquired by the Company or proposed to be purchased or acquired on capital account within two years preceding the date of the advertisement and the amount paid or payable in cash, shares or securities to the vendor and, where there is more than one separate vendor or the Company is a sub-purchaser, the amount so paid or payable to each vendor and the amount (if any) payable for goodwill
  - (14) Particulars of any commissions, discounts, brokerages or other special terms granted within two years preceding the date of the advertisement to any persons in connection with the issue or sale of any stocks, shares or securities of the Company
  - (15) The dates of and parties to all material contracts with a description of the nature of the contract entered into within the two years preceding the date of the advertisement not being contracts entered into in the ordinary course of the business carried on or intended to be carried on by the Company
  - (16) Particulars of any of the Share or Loan Capital of the Company which is under option, or agreed to be put under option, with the price and term of the option and consideration for which the option was granted
  - (17) Either a copy or with the approval of the Committee a summary of the last audited Balance Sheet and Profit and Loss Account with a copy of the Auditors' certificate and any notes or observations in or on the Balance Sheet required to be published by any Act of Parliament relating to the Company
  - (18) A statement certified by the Company's Auditors giving particulars of the Share or Loan Capital subscribed and the cash actually received by the

Company in connection therewith within twelve months preceding the date of the advertisement, also particulars of all dividends paid and amounts carried forward or carried, or proposed to be carried, to reserve out of the profits as shown in the accounts submitted to the shareholders or in the Directors' Reports attached to the Balance Sheet under Section 123 (2) of the Companies Act, 1929, in respect of each of the two financial years preceding the advertisement for which accounts have been made up and audited

(19) A reasonable time (not being less than seven days) during which, and a place in the City of London at which a copy of the Memorandum and Articles of Association of the Company, any Statute or Order having statutory effect affecting the Company, copies of all material contracts, Trust Deed (if any) referred to in the advertisement, and copies of the audited accounts of the Company for each of the two financial years preceding the date of the advertisement for which accounts have been made up and audited with the Auditors' certificates, copies of all other Reports and Accounts referred to in the advertisement, and all notes or information required to be given by the Companies Act affecting such accounts can be inspected by any member of the public during usual business hours

NOTE 1—In the case of foreign Companies the documents to be offered for inspection will be the documents corresponding to those above mentioned in the case of British Companies, and where such documents are not in the English language notarially certified translations thereof must be available for inspection

NOTE 2—In cases where it is contended that contracts cannot be offered for inspection without disclosing to trade competitors important information which might be detrimental to the Company's interests, application can be made to the Committee to dispense with the offering of such documents for inspection

NOTE 3—In any case where information is not given under any of the above heads Nos 12, 13, 14, and 16, the advertised particulars must state that no such payments have been made or explain why the information is not given

### III

In the case of a Company (other than a Company incorporated by Special Act of Parliament) where Leave to Deal in or a quotation for any of its Share or Loan Capital has already been granted, the statement required to be advertised by Appendix 34b must contain the following information—

(1) Full particulars of the further Share or Loan Capital in which Leave to Deal is to be applied for, and in particular

- (a) In the case of Stocks or Shares the rights conferred as regards income, capital and voting. In the case of Debentures, Debenture Stock, or Securities, the rights conferred as regards income and capital, and full information as to the amount and application of any sinking fund, any right of the Company to redeem before maturity, any rights of conversion, or other similar rights, and in either case the limits of the authorized issue
- (b) The price at which and terms upon which such Share or Loan Capital has been issued or agreed to be issued and whether the same has or has not been paid up in full. If not paid in full, particulars of all payments still to be made with due dates of payment. Where any such Share or Loan Capital has been or is to be issued in whole or in part for a consideration other than cash, full particulars of the consideration received or receivable by the Company for the issue thereof must be given
- (c) Particulars of any commissions, discounts, brokerages, or other special terms granted to any parties in connection with the issue or sale of any such Stocks, Shares or Securities



- (d) The dates of and parties to all material contracts affecting the issue of such Share or Loan Capital with a description of the nature of the contract
  - (e) A reasonable time (not being less than seven days) during which and a place in the City of London at which a copy of the Memorandum and Articles of Association of the Company, any Statute or Order having statutory effect affecting the Company, copies of all the contracts and Trust Deed (if any) referred to in the advertisement can be inspected by any member of the public during usual business hours
  - (2) Particulars of any of the Share or Loan Capital of the Company which is under option or agreed to be put under option with the price and term of option and consideration for which the same was granted
  - (3) Names of the Directors of the Company
  - (4) Name, address and professional qualification of the Auditors of the Company
- NOTE—Qualification means Chartered Accountant, Incorporated Accountant, etc
- (5) Names of London Brokers
  - (6) A statement that further particulars of the Company are contained in the "Stock Exchange Official Intelligence" current at the date of the publication of this advertisement
  - (7) Such other information as in the circumstances of any particular case the Committee think it advisable to require

#### IV

In the case of Government and Municipal loans and issues by Statutory Boards, Companies incorporated by Special Act of Parliament and other similar Authorities, the statement required to be advertised by Appendix 34b must contain the following information—

- (1) Full particulars of the Share or Loan Capital in which Leave to Deal is to be applied for and in particular
  - (a) The rights conferred as regards income and capital, with full information as to the amount and application of any sinking fund, any right of the Authority to redeem before maturity, any rights of conversion, or other similar rights and the security upon which any loan is charged
  - (b) The price at which and the terms upon which any such Share or Loan Capital has been issued or agreed to be issued, and whether the same has or has not been paid up in full. If not paid in full, particulars of all payments still to be made with due dates of payment must be given
  - (c) The dates of and parties to all material contracts affecting the issue of such Share or Loan Capital with a description of the nature of the contract
  - (d) A reasonable time (not being less than seven days) during which and a place in the City of London at which a copy of the Statutes, Orders, or other authorities under which the Share or Loan Capital has been created and issued, with copies of all the material contracts, Trust Deed (if any) above referred to and, where any of the above-mentioned documents are not in the English language, notarially certified translations thereof, can be inspected by any member of the public during usual business hours
- (2) Particulars of any of the Share or Loan Capital which is under option or agreed to be put under option with the price and terms of option and consideration for which the same was granted
- (3) Names of Directors (if any) and Auditors (if any) stating qualification

NOTE —Qualification means Chartered Accountant, Incorporated Accountant, etc

(4) Name and address of Secretary (if any) and situation of Chief Office (if any)

(5) Name of Bankers and London brokers

C Where a Broker is instructed to sell on behalf of a Company a further issue of Stock or Shares forming a part of an amount previously created (permission to deal, if necessary, having been given for the original issue) he may obtain permission to deal on presentation of a letter from the Company authorizing him to make the sale, or he may sell the Stock or Shares previous to permission being given, provided he makes the sale subject to the permission being granted

D In the case of Securities of a purely local nature within Great Britain or Northern Ireland or of a Dominion, Colonial or Foreign issue of which no former Security has been quoted previously on a Dominion, Colonial or Foreign Exchange a Broker may make a specific bargain with the authority of the Sub-Committee on New Issues and Official Quotations, but bargains shall not be recorded in the Supplementary List until permission to deal in the issue has been granted by the Committee

E In the case of Securities quoted on a Dominion, Colonial or Foreign Exchange or in the case of New Issues where a previous issue or issues of the same Country, Corporation or Company have been quoted on a Dominion, Colonial or Foreign Exchange a Member may make a bargain, provided that a Jobber may not make such bargain out of a market in which he acts as a Jobber

Such bargains shall not be recorded in the Supplementary List until permission to deal in the issue has been granted by the Committee

F

## NOTICE

### RULE 159

Committee Room,  
The Stock Exchange,  
19

Dealings in the following Securities as shown in Column (1) have been allowed by the Committee under Rule 159

In the case of Securities marked with an asterisk dealings will not be permitted until after the issue of Letters of Allotment or Acceptance

(1) Permission to Deal <i>Granted</i>	(2) Securities unissued or for which Permission to Deal has <i>not</i> been applied for
<p>(c) Allotted for Cash, (v) Allotted to Vendors or others for a consideration other than Cash or in exchange for Cash, (o) Allotted in pursuance of an option</p>	<p>(v) Allotted to Vendors or others for a consideration other than Cash or in exchange for Cash, (o) Under option, (r) Reserved for future issue</p>

## MATERIAL CONDITIONS

These include the following—

The Capital, dividend, voting and other rights conferred by the different classes of shares, and whether or not the shares are fully-paid up, and if not, to what extent they are paid up

The amount of Shares and Debentures or Debenture Stock that have been issued (in the case of Debentures or Debenture Stock, giving the rate of interest payable thereon), the dates and prices at which they have been issued, and the amounts of any underwriting or other commissions that have been paid in connection therewith

The names and addresses of the Vendors of any property purchased or acquired by the Company or proposed so to be purchased or acquired and the amount payable in cash, shares or debentures to the Vendor, or any other consideration for the sale, and where there is more than one separate Vendor, or the Company is a sub-purchaser, the amount or consideration so payable or granted to each Vendor

The amount or estimated amount of the preliminary expenses

Full particulars of the value and extent of the interest of every Director in the promotion of or the property proposed to be acquired by the Company or in any profit made by any Vendor or Promoter with a statement of the amount paid or agreed to be made to any Director or to his firm or any Company in which he is interested either to qualify him or to induce him to become a Director or otherwise for services rendered by him

The names and parties to every material contract and the place where they can be inspected

The Memorandum and Articles of Association (and Trust Deed if the issue relates to Debentures or Debenture Stock) must be open for inspection at the same time and place

Whether any Shares are under option, and if so, at what prices, when such options expire and the consideration (if any) given for such options

Particulars as to qualification and remuneration of Directors

## OFFICIAL QUOTATIONS

A CONDITIONS PRECEDENT TO AN APPLICATION FOR  
OFFICIAL QUOTATION

(RULE 162)

1 That the Memorandum, Articles of Association, By-Laws or Charter of Incorporation, and Trust Deed (in the case of an Application for Debentures or Debenture Stock so secured), or other authority under which the Share or Loan Capital has been created and issued shall be in a form approved by the Committee

2 That the Stock Certificate, Share Certificate, Debenture, Bond or other document representing the Security shall be in a form approved by the Committee

NOTE —The relevant documents referred to in 1 and 2 above must be submitted (in duplicate) to the Secretary of the Share and Loan Department for approval before application for Official Quotation is formally made

3 That Permission to Deal in the Security shall have been given or that (prior to August, 1914) a Special Settling Day in the Security had been fixed. In the case of Securities dealt in prior to August, 1914, and for which no Special Settling Day had been fixed, or Permission to Deal granted, inquiry should first be made of the Secretary of the Share and Loan Department to ascertain the requirements under this heading

4 That two-thirds of the issue for which application for Official Quotation is made, whether such issue be the whole or part of the authorized amount, shall have been applied for by and unconditionally allotted to the Public, any part of the issue made in lieu of money payments not being considered to form part of the public allotment

5 That the Definitive Stock or Share Certificate, Debenture Bond or other Security shall have been or shall be ready to be delivered

6 That at least the first Annual Report and Accounts shall have been issued (This condition does not apply to Government and Municipal Loans and the like)

7 That there is sufficient public interest in the Security, and that it is of sufficient magnitude and importance

## B

## ARTICLES OF ASSOCIATION

Articles of Association must contain provisions to the following effect—

1 That Directors must hold a share qualification which must not be merely nominal

2 That the borrowing powers of the Board are limited to a reasonable amount

3 That the non-forfeiture of dividends is secured

4 That the common form of transfer shall be used, and that there shall not be any restriction on the transfer of fully-paid Shares

5 That all forms of Certificate for Shares, Stock, Debenture Stock, or representing any other form of Security (other than Letters of Allotment or Scrip Certificates) shall be issued under the Common Seal of the Company, and shall bear the autographic signatures of one or more Directors and the Secretary

6 That fully-paid Shares shall be free from all lien

7 That a Director shall not vote on any contract in which he is interested and if he do so vote, his vote shall not be counted

8 That the Directors shall have power at any time and from time to time to appoint any other person as a Director either to fill a casual vacancy or as an addition to the Board, but so that the total number of Directors shall not at any time exceed the maximum number authorized by the Articles of Association, but that any Director so appointed shall hold office only until

the next following Ordinary General Meeting of the Company and shall then be eligible for re-election

9 That the Company in General Meeting shall have power by Extraordinary Resolution to remove any Director before the expiration of his period of office

10 That a printed copy of the Report, accompanied by the Balance Sheet (including every document required by law to be annexed thereto) and Profit and Loss Account or Income and Expenditure Account, shall at least seven days previous to the General Meeting, be delivered or sent by post to the registered address of every member, and that three copies of each of these documents shall at the same time be forwarded to the Secretary of the Share and Loan Department, The Stock Exchange, London

11 That any amount paid up in advance of calls on any Share shall carry interest only, and shall not entitle the holder of the Shares to participate in respect thereof in a dividend subsequently declared

12 That where a Company takes power to refuse to register more than three persons as joint holders of a Share such power shall not apply to the executors or trustees of a deceased holder

13 That the charge for a new Share Certificate issued to replace one that has been worn out, lost, or destroyed, shall not exceed one shilling

NOTE—The above requirements are not exhaustive The Committee will take exception to any provisions contained in the Articles of Association which may, in any way, restrict free dealings in the Shares or which may, in the Committee's opinion, be unreasonable in the case of a Public Company

#### C TRUST DEEDS AND DEBENTURES NOT SECURED BY TRUST DEED

Trust Deeds and Debentures not secured by a Trust Deed must contain provisions to the following effect—

1 Where provision is made that the Security shall be repayable at a premium either at a fixed date or at any time upon notice having been given, it must be provided that, should the Company go into voluntary liquidation, the Security shall not be repayable at less than the premium then current

2 That any new Trustee appointed under any statutory or other power must prior to appointment be approved by a Resolution of the Debenture (or Debenture Stock) Holders by Extraordinary Resolution A Corporation or Company may be appointed a Trustee Except where the Trustee or one of the Trustees is a Body Corporate, the Trust Deed shall provide that there shall always be at least Two Trustees

3 That a meeting of Debenture (or Debenture Stock) Holders must be called on a requisition in writing signed by holders of at least one-tenth of the nominal amount of the Debenture (or Debenture Stock) for the time being outstanding

4 The clause defining an Extraordinary Resolution must provide—

- (i) That the quorum for passing such resolution shall be the holders of a clear majority in value of the whole of the outstanding Debentures (or Debenture Stock) present in person or by proxy If such a quorum be not obtained, provision may be made for the adjournment of the meeting for not less than fourteen days, and in that event that notice of the adjourned meeting shall be sent to every Debenture (or Debenture Stock) Holder, and that such notice shall state that if a quorum as above defined shall not be present at the adjourned meeting, the Debenture (or Debenture Stock) Holders then present will form a quorum
- (ii) That the necessary majority for passing an Extraordinary Resolution shall be not less than three-fourths of the persons voting thereat on a show of hands and if a poll is demanded then not less than three-fourths of the votes given on such a poll
- (iii) That on a poll, each holder of Debentures or Debenture Stock shall be entitled to at least one vote in respect of every £10 of Debentures

or Debenture Stock held by him, except that where the lowest denomination in which such Securities can be transferred is more than £10, such denomination may be substituted for the £10 above referred to.

5 That on any payment off of part of the amount due on the Security, unless a new document is issued, a note of such payment shall be enfaced (not endorsed) on the document

6 That in the case of a Registered Security the common form transfer shall be used and the fee for a new registered Debenture, or Debenture Stock Certificate to replace one that has been worn out, lost or destroyed shall not exceed one shilling

7 In the case of Securities which are entitled "Mortgage" it is essential that the same should be secured to a substantial extent by a direct specific mortgage on freehold or long leasehold estate or other immovable property or on ships. In the case of Debentures or Debenture Stocks or other issues which will constitute an unsecured liability, it is essential that the same should be entitled "unsecured"

NOTE—The above requirements are not exhaustive. The Committee will take exception to any provision contained in the Trust Deed or Debentures which may, in any way, restrict free dealings or which may, in the Committee's opinion, be unreasonable in the case of a security to be included in the Official List

## D

### DEFINITIVE DOCUMENTS

#### I SHARE AND STOCK CERTIFICATES AND DEBENTURES

1 All Certificates or Debentures must state on their face the authority under which the Company is constituted and the amount of Authorized Capital of the Company

2 All Registered Certificates or Debentures must bear a footnote that no transfer of any portion of the holding can be registered without the production of the Certificate

3 Where the Capital of the Company consists of more than one class of Shares of the same denomination, the distinctive numbers of the Shares of each class must be printed on the face of the Share Certificates

4 All Certificates and Debentures must be under seal and bear the requisite autographic signatures

5 All Preference Share (or Stock) Certificates must, in addition, bear (preferably on their face) a statement of the conditions both as to Capital and dividends and redemption (if any) under which the Security is issued

6 Debentures and Debenture Stock Certificates must state, in addition, on their face, the dates when the interest is payable and the authority under which the issue is made (i.e. Articles of Association and Resolutions of Shareholders and Directors) and on their back all conditions of the issue, as to redemption, conversion and transfer

#### II BONDS

1 Bonds must specify the amount and conditions of the loan and the powers under which it has been contracted

2 Bonds of English Companies must be under the Common Seal and bear the requisite autographic signatures

3 When an issue of Dominion, Colonial or Foreign Bonds is made wholly or partly in London, those issued in London must bear the autographic counter-signature of the London Agents or Contractors

4 Bonds quoted abroad must bear the autographic signature of some properly authorized person and evidence of his authority must also be furnished

E On receipt of intimation that the relevant documents submitted to the Secretary of the Share and Loan Department and referred to in A 1 and 2

are in order, and on written request to the Secretary of the Share and Loan Department giving particulars of the Security for which Official Quotation is desired, an application form will be provided which must be signed, and a note of the further requirements of the Committee will then be supplied by the Share and Loan Department. These further requirements will include—

1 Production of the Certificate of Incorporation and Certificate that the Company is entitled to commence business (unless previously exhibited)

2 A Certified Copy of the Memorandum and Articles of Association, or Act of Parliament or any other relative documents affecting the constitution of the Company, and, in the case of Debenture Stock or Debentures, a Certified Copy of the Trust Deed (if any) securing the same must be supplied and the Official Certificate showing that the requirements of the Companies Act with regard to the registration of charges have been complied with must be produced

NOTE—In the case of Foreign Companies, notarially certified copies of the corresponding documents to those above referred to will be required and in the case of issues of Debentures or Debenture Stock of Foreign Companies, evidence must be furnished as to the requirements of the foreign law with regard to the registration of mortgages and charges and compliance therewith

3 Certified Copies of all Prospectuses, Offers for Sale, Advertisements under Appendix 34b, Circulars issued, or Resolutions passed

4 Certified Copies of the definitive document and temporary documents

5 Certified Copies of all material contracts, agreements, concessions and other similar documents

6 Certified Copy of the last published Report and Accounts

7 A short written history of the Company setting forth its origin, progress, dividends, particulars as to the various issues of Shares, etc., the number of transfers registered during the preceding twelve months, and the number of Shares (or amount of Stock) represented by such transfers

8 A Statutory Declaration by the Chairman and Secretary to the effect that—

- (a) All the legal requirements have been complied with, and all documents required to be filed have been duly filed with the Registrar of Companies. In the case of an English Company charging property abroad, that the necessary mortgage has been properly legalized and registered in the country where the property is situated
- (b) The number (or amount of Stock) of Shares, Debentures or Bonds applied for by the Public, the number (or amount of Stock) of Shares, Debentures or Bonds unconditionally allotted to the Public and the amount per Share (or £—%) paid thereon in cash, and the number (or amount of Stock) of Shares, Debentures or Bonds allotted for a consideration other than cash. Where any calls or instalments are in arrear particulars must be given
- (c) That the definitive documents have been or are ready to be delivered, that the purchase of the property has been completed and the purchase money paid, that the whole of the Shares, Debentures (or Stock) are (or is) in all respects identical<sup>1</sup> (If applicable) That a Trust Deed has been executed and completed and the effect thereof and the nature of the charge created thereby

<sup>1</sup> A statement that Shares are in all respects identical is understood to mean that—

They are of the same nominal value, and that the same amount per Share has been called up

They carry the same rights as to unrestricted transfer, attendance and voting at meetings, and in all other respects

They are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution the dividend payable on each Share will amount to exactly the same sum

A statement that Stock is in all respects identical is understood to mean that—

All the Stock is entitled to the same rights as to unrestricted transfer, and in all other respects

All the Stock is entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution the dividend payable on each £100 Stock will amount to exactly the same sum

- (d) In the case of an issue of Stock, Registered Debentures, or Bonds, the total number of allottees and the largest amount applied for by and allotted to any one applicant

9. A Certified Copy of the Register of Share, Stock, or Debenture Holders (names, addresses, and holdings) with a statement of the total number of Share, Stock, or Debenture Holders and the ten largest holdings of each class. In cases where there are a very large number of Share, Stock, or Debenture Holders, the Committee may not require a Certified Copy of the Register.

10. An undertaking under the seal of the Company forthwith upon any alteration being made in the Memorandum or Articles of Association, Act of Parliament or any other document affecting the constitution of the Company, or in the form of any Trust Deed securing Debentures or Debenture Stock or in any Debentures, to send to the Secretary of the Share and Loan Department full information of the effect of such alteration and certified copies of all material documents relating thereto and contemporaneously with the issue of any further Shares or Loan Capital of the Company, whether the same is for public subscription or not, to advise the Secretary of the Share and Loan Department thereof and to furnish him with all such particulars relating thereto as the Committee may require.

11. A letter nominating a Broker, a Member of the Stock Exchange, to represent the interests of the Company before the Committee.

12. In the case of an issue of a Government, Municipal, Dominion, Colonial and Foreign Loan—

(a) Authority of the Issuing House to receive subscriptions, and

(b) In addition, in the case of Dominion, Colonial and Foreign Loans, evidence that the Bonds of the Loan bear the autographic signature of some properly authorized person, whose specimen signature and authorization must be supplied for retention by the Department.

13. In the case of a reconstructed Company, a short history of the old and new Company, and Certified Copy of the Scheme of Reconstruction, and evidence that any necessary Orders of Court have been obtained.

14. In the case of Dominion, Colonial and Foreign Securities quoted abroad, official evidence of quotation in the Country of their origin or where the issue has been made.

15. Documents not in the English language must be accompanied by notarially certified translations.



## FAILURES

(Rule 176 [1])

36.

Statements  
of Accounts  
open

Jobbers'  
Ledger  
Closing at  
Hammer Price.  
Bargains for  
Future Dates

Ticket  
issued by  
Defaulter  
Differences.

Return of  
Securities  
not paid for

Claim for  
Payment  
from  
Immediate  
Buyer

Settlement  
Department  
Tickets—  
Trace

Intermediary  
a Defaulter.

Reads

Client in  
Default  
Closing

Client  
Communi-  
cation with  
Completion  
Price.

1 As soon after declaration as possible all Members having accounts open with the Defaulter should furnish the Official Assignee with two statements, showing respectively—

(a) A copy of the Jobbers' Ledger for the current Account  
(b) All bargains which have been closed at "Hammer Prices" If there are any bargains for future dates, these must be set out on separate sheets for each Account

In the case of a Ticket issued by a Defaulter for Securities which have not been paid for, a contra entry should be made and the original bargain closed at the "Hammer Price"

2 Differences due to or from a Defaulter on the current Account are to be set off against those due from or to the Official Assignee on the Account closed at the Hammer Such set off is not to be made until the differences are payable A creditor for "Hammer Price" differences, who has paid a difference on the current Account is entitled to the return of such difference, if this claim is equal to or greater than the amount paid and ranks upon the estate for the balance If less he is entitled to the return of the amount claimed

3 A Member having delivered securities to a Defaulter and not having received due payment therefor should immediately apply to the Defaulter for the return of such securities

If such securities were delivered on a Ticket the Member who had delivered should immediately apply to the Member next to him on the trace for payment handing him the Defaulter's dishonoured cheque and the securities (if any) recovered

In the case of tickets issued by the Settlement Department application should be made to that Department for the trace

Each Member on the trace should act in a similar manner until the ultimate Member, who dealt with the Defaulter, is reached This Member should immediately lodge his claim with the Official Assignee

If an intermediary on the trace be a Defaulter the dishonoured cheque and securities (if any) should be delivered to the Official Assignee

### IF THE DEFAULTER IS A BROKER

4 Immediately on the declaration, Members having accounts open with him should apply to the Official Assignee for the names and addresses of the Clients (if any) for whom the bargains are open

5 If the client is in default all bargains open for him should at once be closed by sale or purchase in the Market Putting the Stock or Shares on the "book" without a definite agreement with the Client is not closing

6 (a) If the Client is not in default the Member should immediately communicate with him If desired the Official Assignee will supply a suggested form of letter

(b) A Client not in default is bound to complete his

transactions at the price of the bargain, or in the case of securities carried over, at the last making-up price and rate

(c) The Client may complete his transactions direct with the Member or appoint a Broker, Banker or other Agent to complete on his behalf, but no Member is compelled to accept instructions from the Client to "make-down"

Completion  
No obligation  
on Member  
to "make-  
down "

(d) If the Client gives instructions to close, the Member is at liberty to do so, the difference between the bargain price and the closing price being payable by the Client to the Member or by the Member to the Client as the case may be Putting the Stock or Shares on the "book" without a definite agreement with the Client is not closing.

Instructions  
to Close

(e) If after due communication the Client fails to give instructions by 3 o'clock on the day before Contango Day (or by 11 o'clock on Saturday if the Contango Day be Monday), the Member is entitled to close forthwith

Failure to  
give  
Instructions

7 As soon as a Client has personally completed his bargain or the Member has agreed to "make-down" with a new Broker, a supplemental account must be furnished to the Official Assignee, setting out only the bargains completed This account will be the same as regards the prices as the former "Hammer Price" account, but with these items on the reverse sides If this account shows a difference due to the Official Assignee, it must be paid when due If the account shows a difference due to the Member furnishing it, such difference will rank as a preferential claim on differences, and be paid in full if the differences in the Official Assignee's hands are sufficient

Supplemental  
Account to be  
Rendered on  
Completion.

Preferential  
Claim on  
Differences

## FAILURES

37.

THIS INDENTURE made the                      day of

19                      BETWEEN

residing at

and now or recently carrying on business on The Stock Exchange and at                      in the City of London as Stock and Share                      (hereinafter called "the Defaulters") of the one part and

of New Court, Throgmorton Street, in the said City and of the Stock Exchange the Official Assignee of the said Stock Exchange (hereinafter called the "Official Assignee") of the other part

WHEREAS the Defaulters signed and handed in an application for re-election and were re-elected Members of The Stock Exchange for the year ending the 24th day of March, 19                      .

AND WHEREAS the Defaulters were on the day of                      19                      duly declared to be Defaulters on The Stock Exchange

NOW THIS INDENTURE WITNESSETH as follows—

1 The Defaulters as BENEFICIAL OWNERS hereby as regards their joint estate assign and convey and each of them as BENEFICIAL OWNER as regards his separate estate hereby assigns and conveys to the Official Assignee ALL the property (real as well as personal) whatsoever and wheresoever (except property which by reason of its subjecting the holder to the performance of any onerous covenant or obligation the Official Assignee may think fit by writing under his hand to disclaim)

which is held by or on behalf of and belongs to the Defaulters jointly or either of them separately at the date of this Deed and is or now represents property or the proceeds or produce of property which belonged to them or to either of them at the date on which they were declared Defaulters on The Stock Exchange

To HOLD the same unto the Official Assignee and his assigns according to the respective natures and tenures thereof UPON TRUST for sale and collection and distribution in manner provided by the Rules and Regulations of The Stock Exchange set forth in the Schedule hereto and in accordance with the usage and practice of The Stock Exchange of the net proceeds thereof amongst the creditors of the Defaulters whose debts or claims arise from Stock Exchange transactions and who being Members of The Stock Exchange are entitled or who not being Members of The Stock Exchange are admitted to participate in the distribution thereof under and in accordance with the said Rules and Regulations

2 The Defaulters and each of them hereby declare that they hold or respectively hold and will stand possessed of the excepted property which may be disclaimed as aforesaid if any UPON TRUST to deal with and dispose of the same and the income and proceeds thereof if the Official Assignee shall so require in such manner as he shall from time to time direct to the intent and so that any net proceeds thereof or any benefit to result therefrom may be handed over to the Official Assignee and may form part of and be dealt with and administered in like manner as and as part of the property hereinbefore assigned and conveyed

3 The Defaulters and each of them hereby respectively and irrevocably appoint the Official Assignee and his assigns aforesaid to be their and his Attorney, in their and his name and on their and his behalf to execute and sign all deeds or other documents which the Official Assignee or his aforesaid assigns shall deem necessary or expedient for transferring any stocks shares or securities registered or inscribed in the name of the Defaulters or either of them or for assigning or dealing with any of the excepted property the subject of the last preceding clause or for any other purposes necessary or deemed expedient for giving effect to and carrying out the purposes of these presents

4 Any difference or dispute of whatsoever nature which may arise with regard to the effect or operation of these presents or of any of the provisions thereof expressed or implied or incorporated therein or as to any claim to participate or the amount of ranking or otherwise howsoever in relation thereto shall be referred to and settled by the Committee for General Purposes of The Stock Exchange and their decision shall be final and bind all parties

As WITNESS the hands and seals of the parties hereto the day and year first aforesaid

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#### SCHEDULE

(Rules 170 (1), 171, 172, 174 to 189, 191 and the Appendix 36)

## BUSINESS FOR A DEFAULTER

38. Regulations as to the transaction of business for a Defaulter's benefit—

(Rule 190.)

1. A preliminary Report from the Official Assignee must be submitted to the Committee
2. The permission will expire on the next 25th March
3. Speculative business for the Defaulter or for clients introduced by him is not allowed
4. Business for clients of the Defaulter who are in default to him or other Members is not allowed

39.

## COMMISSIONS

## MINIMUM SCALE OF COMMISSIONS

2½% Consols, 2½% and 2½% Annuities	$\frac{3}{16}$ per cent on Stock
Securities of or Guaranteed by the British or Indian Government having a currency of not more than Ten years, in bargains of not less than £50,000 Stock	$\frac{1}{8}$ " " Stock
Other British Government Securities	$\frac{1}{4}$ " " Stock
Indian Government Stocks	
Metropolitan Consolidated Stocks	
London County Consolidated Stocks	
Dominion and Colonial Government Securities	
County, Corporation and Provincial Securities (British, Indian, Dominion or Colonial)	$\frac{1}{4}$ " " Stock
Public Boards (Great Britain and Northern Ireland)	
Inscribed Stocks	
Bank of England and Bank of Ireland Stock	$\frac{1}{4}$ " " Money
3% Treasury Bonds in bargains of not less than £50,000	$\frac{1}{16}$ " " Stock

B

Bonds to Bearer other than those included in Section A Price 1 or under	At discretion
Bonds to Bearer other than those included in Section A Price 5 or under	
Bonds to Bearer other than those included in Section A Price 10 or under	$\frac{1}{16}$ " " Stock
Bonds to Bearer other than those included in Section A Price 20 or under	$\frac{1}{8}$ " " Stock
Bonds to Bearer other than those included in Section A Price over 20	$\frac{1}{4}$ " " Stock.

C.

Registered Stocks, Registered Debentures and Bonds  $\frac{1}{2}$  per cent on Money

## D Shares, Registered or Bearer (other than Shares included in Section E)

Price	0	1	0 or under	..	..	At discretion	
						s. d.	
Over	0	1	0 to	0	2	0	0 0½ per Share
"	0	2	0 to	0	3	6	0 0¾ "
"	0	3	6 to	0	5	0	0 1 "
"	0	5	0 to	0	15	0	0 1½ "
"	0	15	0 to	£1	10	0	0 3 "
"	£1	10	0 to	£2	0	0	0 4½ "
"	£2	0	0 to	£3	0	0	0 6 "
"	£3	0	0 to	£4	0	0	0 7½ "
"	£4	0	0 to	£5	0	0	0 9 "
"	£5	0	0 to	£7	10	0	1 0 "
"	£7	10	0 to	£10	0	0	1 3 "
"	£10	0	0 to	£15	0	0	1 6 "
"	£15	0	0 to	£20	0	0	2 0 "
"	£20	0	0 to	£25	0	0	2 6 "
"	£25	0	0 to	.	.	.	½ per cent on Money

## E Shares of Companies incorporated in the United States of America or Canada (whether dealt in in London on a Dollar or Sterling basis), with the exception of Shares which are transferable by Deed of Transfer

Price	25	cents (1s) or under		At discretion	
				s. d.	
Over	25	cents (1s)	to 50 cents (2s)	0	0½ per Share
"	50	cents (2s)	to 87½ cents (3s 6d)	0	0¾ "
"	87½	cents (3s 6d)	to \$1¼ (5s)	0	1 "
"	\$1¼	(5s)	to \$3¾ (15s)	0	1½ "
"	\$3¾	(15s)	to \$7½ (30s)	0	3 "
"	\$7½	(30s)	to \$10 (£2)	0	4½ "
"	\$10	(£2)	to \$15 (£3)	0	6 "
"	\$15	(£3)	to £25 (£5)	0	7½ "
"	\$25	(£5)	to \$50 (£10)	0	9 "
"	\$50	(£10)	to \$100 (£20)	1	0 "
"	\$100	(£20)	to \$150 (£30)	1	6 "
"	\$150	(£30)	to \$200 (£40)	2	0 "

With 6d rise for every \$50, or portion thereof, in price

## F Options for more than one Account . . . As on bargains

Options for one Account or Less	..	.	.	.	.
Bargains in partly-paid Stock or Shares of New Issues	..	.	.	.	.
Bargains in Rights for Cash	..	.	.	.	.
Powers of Attorney for Inscribed Stock	..	.	.	.	.
Probate and other Valuations	..	.	.	.	.
Securities Made-up or Made-down	..	.	.	.	.
Short-dated Securities (having five years or less to run)	..	.	.	.	.
Transfers of Stocks and Shares	..	.	.	.	.

At discretion

## Small Bargains

No lower Commission than £1 to be charged except in the case of (a) Transactions amounting to less than £100 in value on which a Commission of not less than 10s must be charged, or (b) Transactions amounting to less than £20 in value on which a Commission of not less than 5s must be charged

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## REMISIERS

## REGULATIONS FOR REMISIERS

- 1 A Broker desirous of employing a Remisier shall apply to the Committee to cause the Remisier's name and address and the locality for which he is appointed Remisier to be inscribed in a Register to be kept for the purpose by the Secretary The Register shall not be open to the inspection of the Members generally but only to the Committee sitting as such or to a Sub-Committee thereof The Committee shall have full power to refuse registration or to strike off the Register any person without reason assigned
- 2 No person shall be registered as a Remisier to more than one Broker
- 3 A Remisier who shall under any circumstances either directly or indirectly divide or share his remuneration with his Principal shall be forthwith struck off the Register
- 4 A Remisier may not advertise or issue Circulars to other than his own Principals
- 5 A Remisier may be an individual or firm, but if an individual must not be a partner in a firm or in the employ of an individual or firm
- 6 A Remisier must give the names of his Principals in whose names Contract Notes must be rendered
- 7 A Remisier may not act as a Remisier for his personal business

Remisier to  
be Registered.Remisier  
may act for  
one Broker  
onlyRemisiers  
may not  
divide with  
Principals or  
Sub-agentsRemisier  
may not  
Advertise  
Firms and  
EmployeesContract  
NotesPersonal  
Business.

## RULE 200 (APPENDIX 40)

41

## APPLICATION FOR REGISTRATION OF A REMISIER

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

request your permission to employ

(Name in full)

residing at

as a Remisier for business at

for the year ending 24th March, 19 , in accordance  
with the provisions of Rule 200

Mr  
is not a Partner in a Firm or in the  
employ of an individual or firm

Yours faithfully,

THE STOCK EXCHANGE, LONDON  
of 19

---

Rule 200. A Broker shall be entitled to employ for the purpose of his business a Remisier resident outside Great Britain and Northern Ireland and the Irish Free State whose name is registered with the Committee in accordance with Appendix 40, and to remunerate such Remisier with a share not exceeding one-half of the Commission charged to the Principal he introduces whether such Commission be at the Minimum Scale as laid down in Appendix 39 or as modified by the provisions of Rules 195, 196 (1) and 197, 197a, or 197b

## APPENDIX 40

## REGULATIONS FOR REMISIERS

1 A Broker desirous of employing a Remisier shall apply to the Committee to cause the Remisier's name and address and the locality for which he is appointed Remisier to be inscribed in a register to be kept for the purpose by the Secretary. The register shall not be open to the inspection of the Members generally but only to the Committee sitting as such or to a Sub-Committee thereof. The Committee shall have full power to refuse registration or to strike off the register any person without reason assigned.

2 No person shall be registered as a Remisier to more than one Broker.

3 A Remisier who shall under any circumstances either directly or indirectly divide or share his remuneration with his Principal shall be forthwith struck off the register.

4 A Remisier may not advertise or issue circulars to other than his own Principals.

5 A Remisier may be an individual or Firm, but if an individual must not be a Partner in a Firm or in the employ of an individual or Firm.

6 A Remisier must give the names of his Principals in whose names Contract Notes must be rendered.

7 A Remisier may not act as a Remisier for his personal business.

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## RULE 200 (APPENDIX 40)

## RENEWAL OF APPLICATION FOR REGISTRATION OF REMISIERS

*To the Committee for General Purposes  
of The Stock Exchange*

GENTLEMEN,

I  
We request renewal of permission to employ the following persons as Remisiers for the year commencing 25th March, 19 , in accordance with the provisions of Rule 200 —

NAME

LOCALITY

Assuring you that the above applications are strictly in accordance with Appendix 40 quoted below,

I  
We remain,

Yours faithfully,

THE STOCK EXCHANGE, LONDON,  
of 19

Rule 200 A Broker shall be entitled to employ for the purpose of his business a Remisier resident outside Great Britain and Northern Ireland and the Irish Free State whose name is registered with the Committee in accordance with Appendix 40, and to remunerate such Remisier with a share not exceeding one-half of the Commission charged to the Principal he introduces whether such Commission be at the Minimum Scale as laid down in Appendix 39 or as modified by the provisions of Rules 195, 195 (1) and 197, 197a, or 197b

## APPENDIX 40.

## REGULATIONS FOR REMISIERS

1 A Broker desirous of employing a Remisier shall apply to the Committee to cause the Remisier's name and address and the locality for which he is appointed Remisier to be inscribed in a register to be kept for the purpose by the Secretary. The register shall not be open to the inspection of the Members generally but only to the Committee sitting as such or to a Sub-Committee thereof. The Committee shall have full power to refuse registration or to strike off the register any person without reason assigned.

2 No person shall be registered as a Remisier to more than one Broker.

3 A Remisier who shall under any circumstances either directly or indirectly divide or share his remuneration with his Principal shall be forthwith struck off the register.

4 A Remisier may not advertise or issue circulars to other than his own Principals.

5 A Remisier may be an individual or firm, but if an individual must not be a Partner in a firm or in the employ of an individual or firm.

6 A Remisier must give the names of his Principals in whose names Contract Notes must be rendered.

7 A Remisier may not act as a Remisier for his personal business.



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## MARKING SLIP

ONLY ONE SECURITY TO BE ENTERED ON  
EACH SLIP

*Date*                      /                      /19

NAME OF STOCK OR SHARE	Bargains at Current Price	+ Bargains at Special Prices	Δ Bargains done with or between Non- Members to- gether with the time of dealing	⊕ Bargains done during un- official hours or on the previous day

## NOTICE

## ACCURACY IN MARKING BARGAINS

Members are requested to be careful that Bargains are Marked in the column on the Marking Slip appropriate to each Bargain

Members will be held responsible for the accuracy of the Marking Slips handed in by their Clerks

A Broker shall not execute an order with a Non-Member unless thereby he can deal for his Principal to greater advantage than with a Member

All Bargains done with or between Non-Members must be marked without delay and the time of dealing stated

*Signature—*

#### 44 REGULATIONS FOR THE SETTLEMENT OF SECURITIES BY THE SETTLEMENT DEPARTMENT

1 Lists must be delivered to the Department not later than 7 p m Contango Day Brokers are particularly requested to schedule every buying and selling bargain separately

2 Alteration Notices to be placed in Members' boxes by 9 30 a m Ticket Day

3 Tickets for Registered Securities to be issued and passed to the Department before 3 p m Ticket Day Members are requested to issue Tickets in accordance with the amounts cleared

4 Tickets for Registered Securities to be placed in Members' boxes before 9 30 a m Intermediate Day

5 Tickets and Buyers' Notices for Scrip Securities to be placed in Members' boxes before 6 p m Intermediate Day

6 Deliverers receiving more than one ticket in a Security for which they hold only one piece of Scrip may apply to the Settlement Department for a Notice giving the name of the Firm or Member who is responsible for the changing of the Security, such Firm or Member must forthwith pay the Deliverer for the whole Security A Firm or Member shall not be made responsible for change in excess of the liability revealed by the items on their lists

7 In certain cases where Securities are being delivered on the trace the Settlement Department may act as an intermediary

#### SPLITS

1 The total loss in each Security caused through splitting tickets in the Settlement Department shall be ascertained after the Settlement, and such loss shall be met by a *pro rata* assessment to be made on those Members whose list reveals a liability for splitting

\* The charge for each split to be 6d or multiples thereof

2 Members must not be charged a loss exceeding that which would be sustained by splitting a ticket in the usual way, the price for this purpose to be the Making-up price of the Security at the current account

3 Members splitting tickets passed to them by the Settlement Department shall be charged the full loss, such loss to be determined by calculations at the price of the ticket

.. 4 Brokers receiving tickets from the Settlement Department must not split them on account of their Jobber, tickets will be passed in accordance with the amounts cleared

5 Where an error in a clearing list causes the splitting of a ticket, the Member responsible for the error shall be liable for any loss incurred

6 Members claim from the Settlement Department in the usual way the full loss incurred through splitting tickets

#### RIGHTS

1 The Manager of the Settlement Department shall determine the Member liable for the loss of Rights caused through splitting a ticket Members shall not be liable for a greater loss than that revealed by their items cleared

2 A Member claiming loss of Rights caused through the Settlement Department splitting a ticket shall receive from the Department a Notice giving the name of the Member who shall be responsible to him for such loss



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